FEDERAL REGISTER

VOLUME 18 NUMBER 77

Washington, Wednesday, April 22, 1953

TITLE 6—AGRICULTURAL CREDIT

Chapter IV—Production and Marketing Administration and Commodity Credit Corporation, Department of Agriculture

Subchapter C—Loans, Purchases, and Other Operations

PART 668—MOHAIR

SUBPART—1953 MOHAIR PRICE SUPPORT PROGRAM

§ 668.11 *Support prices for mohair.* The Production and Marketing Administration and Commodity Credit Corporation hereby announce the 1953 Mohair Price Support Program. The program will be carried out under the general supervision and direction of the Executive Vice-President and President of Commodity Credit Corporation, in accordance with bylaws of Commodity Credit Corporation, through the Production and Marketing Administration. Prices of mohair will be supported at a level which will yield an average return to growers equal to 80 percent of parity as of April 1, 1953. The parity price for mohair on that date was 75.9 cents per pound, which results in a support level averaging 60.7 cents per pound. Mohair prices will be supported by means of nonrecourse warehouse storage loans to producers through approved mohair handlers. All domestic mohair produced in 1953, title and beneficial interest in which are retained by the producer, will be eligible for support. All mohair offered for nonrecourse loans shall be in merchantable condition in approved warehouses. Nonrecourse loans will be available on eligible mohair produced in the continental United States, its territories and possessions. If market conditions become such as to make necessary active market support of mohair under this program, detailed program requirements will be issued.

(Sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. Sup. 714b. Interprets or applies sec. 5, 62 Stat. 1072, secs. 201, 401, 63 Stat. 1052, 1054; 15 U. S. C. Sup. 714c, 7 U. S. C. Sup. 1446, 1421)

Issued this 16th day of April 1953.

[SEAL] HOWARD H. GORDON,
Executive Vice-President,
Commodity Credit Corporation.

Approved:

JOHN H. DAVIS,
President,
Commodity Credit Corporation.

[F. R. Doc. 53-3518; Filed, Apr. 21, 1953; 8:48 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Civil Air Regs., Amdt. 20-16]

PART 20—PILOT CERTIFICATES

AIRMAN IDENTIFICATION CARD

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 16th day of April 1953.

At the present time § 20.58 of Part 20 of the Civil Air Regulations provides that the holder of a certificate issued under the provisions of this part shall not exercise the privileges conferred by the certificate unless he has "in his possession" a current airman identification card. In the administration of this provision considerable difficulty has been encountered in enforcing the requirement that the identification card be carried on the person.

Since the present language of this section is believed to be capable of construction to mean other than carried on the person, this amendment is intended to bring this provision into line with the present requirements with regard to the carrying of airman and medical certificates by adding the word "personal" before the word "possession" and thereby clarify that the airman identification card is to be carried on the person.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 20 of the Civil Air Regulations (14

(Continued on p. 2309)

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FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

CODIFICATION GUIDE—Con.

CFR Part 20, as amended) effective May 21, 1953:

By amending § 20.58 to read as follows:

§ 20.58 *Identification.* The holder of a certificate issued under the provisions of this part shall not, except while engaged in operations conducted by a scheduled air carrier, exercise the privileges conferred by the certificate unless he has in his personal possession a current airman identification card or other identification card acceptable to the Administrator which duly describes him. The airman identification card may be obtained from the Administrator who shall prescribe its form and the manner of applying for it.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. 601, 602, 52 Stat. 1007, as amended, 1008; 49 U. S. C. 551, 552)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 53-3529; Filed, Apr. 21, 1953; 8:52 a. m.]

[Civil Air Regs., Amdt. 21-14]

PART 21—AIRLINE TRANSPORT PILOT RATING

AIRMAN IDENTIFICATION CARD

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 16th day of April 1953.

At the present time § 21.45 of Part 21 of the Civil Air Regulations provides that the holder of a certificate issued under the provisions of this part shall not exercise the privileges conferred by the certificate unless he has "in his possession" a current airman identification card. In the administration of this provision considerable difficulty has been encountered in enforcing the requirement that the identification card be carried on the person.

Since the present language of this section is believed to be capable of construction to mean other than carried on the person, this amendment is intended to bring this provision into line with the present requirements with regard to the carrying of airman and medical certificates by adding the word "personal" before the word "possession" and thereby clarify that the airman identification card is to be carried on the person.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 21 of the Civil Air Regulations (14 CFR Part 21, as amended) effective May 21, 1953:

By amending § 21.45 to read as follows:

§ 21.45 *Identification.* The holder of a certificate issued under the provisions of this part shall not, except while engaged in operations conducted by a scheduled air carrier, exercise the privileges conferred by the certificate unless he has in his personal possession a current airman identification card or other identification card acceptable to the Administrator which duly describes him. The airman identification card may be obtained from the Administrator who shall prescribe its form and the manner of applying for it.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. C01, C02, 52 Stat. 1007, as amended, 1008; 49 U. S. C. 551, 552)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 53-3530; Filed, Apr. 21, 1953; 8:52 a. m.]

[Civil Air Regs., Amdt. 22-7]

PART 22—LIGHTER-THAN-AIR PILOT CERTIFICATES

AIRMAN IDENTIFICATION CARD

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 16th day of April 1953.

At the present time § 22.32 of Part 22 of the Civil Air Regulations provides that the holder of a certificate issued under the provisions of this part shall not exercise the privileges conferred by the certificate unless he has "in his possession" a current airman identification card. In the administration of this provision considerable difficulty has been encountered in enforcing the requirement that the identification card be carried on the person.

Since the present language of this section is believed to be capable of construction to mean other than carried on the person, this amendment is intended to bring this provision into line with the present requirements with regard to the carrying of airman and medical certificates by adding the word "personal" before the word "possession" and thereby clarify that the airman identification card is to be carried on the person.

In addition, several sections of the Civil Air Regulations previously were amended to provide that other identification cards acceptable to the Administrator could be used in lieu of the identification cards issued by the administrator. The purpose of those amendments was to permit persons possessing identification cards such as those issued by the various branches of the armed forces to use such cards in lieu of the identification cards provided for by the regulations. It now appears desirable that this provision be made applicable to Part 22 by permitting the use of other identification cards acceptable to the Administrator.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 22 of the Civil Air Regulations (14 CFR Part 22, as amended) effective May 21, 1953:

By amending paragraph (g) of § 22.32 to read as follows:

§ 22.32 *Miscellaneous.* * * *

(g) *Identification.* The holder of a certificate issued under the provisions of this part shall not exercise the privileges conferred by the certificate unless he has in his personal possession a current airman identification card or other identification card acceptable to the Administrator which duly describes him. The airman identification card may be obtained from the Administrator who shall prescribe its form and the manner of applying for it.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. 601, 602, 52 Stat. 1007 as amended, 1008; 49 U. S. C. 551, 552)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 53-3531; Filed, Apr. 21, 1953; 8:52 a. m.]

[Civil Air Regs., Amdt. 24-1]

PART 24—MECHANIC AND REPAIRMAN CERTIFICATES

AIRMAN IDENTIFICATION CARD

Adopted by the Civil Aeronautics Board at its office in Washington, D. C. on the 16th day of April 1953.

At the present time §§ 24.10 and 24.104 of Part 24 of the Civil Air Regulations provide that the holder of a certificate issued under the provisions of the respective subparts shall not exercise the privileges conferred by the certificate

unless he has "in his possession" a current airman identification card. In view of the nature of the employment in which the holders of such certificates are frequently engaged it is considered impracticable to require that such identification cards be carried on the person. Since the purpose of providing that such persons have prescribed identification cards may be accomplished if such cards are readily available upon demand, this amendment is intended to permit persons certificated under this part to keep their identification cards within the immediate area where the person normally exercises the privileges conferred upon him by his certificate.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 24 of the Civil Air Regulations (14 CFR Part 24) effective May 21, 1953:

1. By amending § 24.10 to read as follows:

§ 24.10 *Identification.* The holder of a certificate issued under the provisions of this subpart shall not, except while engaged in operations conducted by a scheduled air carrier, exercise the privileges conferred by the certificate unless he has readily available a current airman identification card or other identification card acceptable to the Administrator which duly describes him. The airman identification card may be obtained from the Administrator who shall prescribe its form and the manner of applying for it.

2. By amending § 24.104 to read as follows:

§ 24.104 *Identification.* The holder of a certificate issued under the provisions of this subpart shall not, except while engaged in operations conducted by a scheduled air carrier, exercise the privileges conferred by the certificate unless he has readily available a current airman identification card or other identification card acceptable to the Administrator which duly describes him. The airman identification card may be obtained from the Administrator who shall prescribe its form and the manner of applying for it.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. 601, 602, 52 Stat. 1007, as amended 1008; 49 U. S. C. 551, 552)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 53-3532; Filed, Apr. 21, 1953; 8:53 a. m.]

[Civil Air Regs., Amdt. 25-3]

PART 25—PARACHUTE RIGGER CERTIFICATES

AIRMAN IDENTIFICATION CARD

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 16th day of April 1953.

At the present time § 25.86 of Part 25 of the Civil Air Regulations provides that the holder of a certificate issued under the provisions of this part shall not exercise the privileges conferred by the certificate unless he has "in his possession" a current airman identification card. In view of the nature of the employment in which the holders of such certificates are frequently engaged it is considered impracticable to require that such identification cards be carried on the person. Since the purpose of providing that such persons have prescribed identification cards may be accomplished if such cards are readily available upon demand, this amendment is intended to permit persons certificated under this part to keep their identification cards within the immediate area where the person normally exercises the privileges conferred upon him by his certificate.

In addition, several sections of the Civil Air Regulations previously were amended to provide that other identification cards acceptable to the Administrator could be used in lieu of the identification cards issued by the Administrator. The purpose of those amendments was to permit persons possessing identification cards such as those issued by the various branches of the armed forces to use such cards in lieu of the identification cards provided for by the regulations. It now appears desirable that this provision be made applicable to Part 25 by permitting the use of other identification cards acceptable to the Administrator.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 25 of the Civil Air Regulations (14 CFR Part 25, as amended) effective May 21, 1953:

By amending § 25.86 to read as follows:

§ 25.86 *Identification.* The holder of a certificate issued under the provisions of this part shall not exercise the privileges conferred by the certificate unless he has readily available a current airman identification card or other identification card acceptable to the Administrator which duly describes him. The airman identification card may be obtained from the Administrator who shall prescribe its form and the manner of applying for it.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. 601, 602, 52 Stat. 1007, as amended, 1008; 49 U. S. C. 551, 552)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 53-3533; Filed, Apr. 21, 1953; 8:53 a. m.]

[Civil Air Regs., Amdt. 26-6]

PART 26—AIR TRAFFIC CONTROL-TOWER OPERATOR CERTIFICATES

AIRMAN IDENTIFICATION CARD

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 16th day of April 1953.

At the present time § 26.37 of Part 26 of the Civil Air Regulations provides that the holder of a certificate issued under the provisions of this part shall not exercise the privileges conferred by the certificate unless he has "in his possession" a current airman identification card. In view of the nature of the employment in which the holders of such certificates are frequently engaged it is considered impracticable to require that such identification cards be carried on the person. Since the purpose of providing that such persons have prescribed identification cards may be accomplished if such cards are readily available upon demand, this amendment is intended to permit persons certificated under this part to keep their identification cards within the immediate area where the person normally exercises the privileges conferred upon him by his certificate.

In addition, several sections of the Civil Air Regulations previously were amended to provide that other identification cards acceptable to the Administrator could be used in lieu of the identification cards issued by the Administrator. The purpose of those amendments was to permit persons possessing identification cards such as those issued by the various branches of the armed forces to use such cards in lieu of the identification cards provided for by the regulations. It now appears desirable that this provision be made applicable to Part 26 by permitting the use of other identification cards acceptable to the Administrator. In view of this change, the last sentence of § 26.37 which presently permits limited use of military identification cards is now being deleted as unnecessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 26 of the Civil Air Regulations (14 CFR Part 26, as amended) effective May 21, 1953:

By amending § 26.37 to read as follows:

§ 26.37 *Identification.* The holder of a certificate issued under the provisions of this part shall not exercise the privileges conferred by the certificate unless he has readily available a current airman identification card or other identification card acceptable to the Administrator which duly describes him. The airman identification card may be obtained from the Administrator who shall prescribe its form and the manner of applying for it.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. 601, 602, 52 Stat. 1007, as amended, 1008; 49 U. S. C. 551, 552)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 53-3534; Filed, Apr. 21, 1953; 8:53 a. m.]

[Civil Air Regs., Amdt. 27-5]

PART 27—AIRCRAFT DISPATCHER CERTIFICATES

AIRMAN IDENTIFICATION CARD

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 16th day of April 1953.

At the present time § 27.23 of Part 27 of the Civil Air Regulations provides that the holder of a certificate issued under the provisions of this part shall not exercise the privileges conferred by the certificate unless he has "in his possession" a current airman identification card. In view of the nature of the employment in which the holders of such certificates are frequently engaged it is considered impracticable to require that such identification cards be carried on the person. Since the purpose of providing that such persons have prescribed identification cards may be accomplished if such cards are readily available upon demand, this amendment is intended to permit persons certificated under this part to keep their identification cards within the immediate area where the person normally exercises the privileges conferred upon him by his certificate.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 27 of the Civil Air Regulations (14 CFR Part 27, as amended) effective May 21, 1953:

By amending § 27.23 to read as follows:

§ 27.23 *Identification.* The holder of a certificate issued under the provisions of this part shall not, except while engaged in operations conducted by a scheduled air carrier, exercise the privileges conferred by the certificate unless he has readily available a current airman identification card or other identification card acceptable to the Administrator which duly describes him. The airman identification card may be obtained from the Administrator who shall prescribe its form and the manner of applying for it.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. 601, 602, 52 Stat. 1007 as amended, 1008; 49 U. S. C. 551, 552)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 53-3535; Filed, Apr. 21, 1953; 8:53 a. m.]

[Civil Air Regs. Amdt. 33-6]

PART 33—FLIGHT RADIO OPERATOR CERTIFICATES

AIRMAN IDENTIFICATION CARD

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 16th day of April 1953.

At the present time § 33.46 of Part 33 of the Civil Air Regulations provides that the holder of a certificate issued under the provisions of this part shall not exercise the privileges conferred by the certificate unless he has "in his possession" a current airman identification card. In the administration of this provision considerable difficulty has been encountered in enforcing the requirement that the identification card be carried on the person.

Since the present language of this section is believed to be capable of construction to mean other than carried on the person, this amendment is intended to bring this provision into line with the present requirements with regard to the carrying of airman and medical certificates by adding the word "personal" before the word "possession" and thereby clarify that the airman identification card is to be carried on the person.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 33 of the Civil Air Regulations (14 CFR Part 33, as amended) effective May 21, 1953:

By amending § 33.46 to read as follows:

§ 33.46 *Identification.* The holder of a certificate issued under the provisions of this part shall not, except while engaged in operations conducted by a scheduled air carrier, exercise the privileges conferred by the certificate unless he has in his personal possession a current airman identification card or other identification card acceptable to the Administrator which duly describes him. The airman identification card may be obtained from the Administrator who shall prescribe its form and the manner of applying for it.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. 601, 602, 52 Stat. 1007, as amended, 1008; 49 U. S. C. 551, 552)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 53-3536; Filed, Apr. 21, 1953; 8:53 a. m.]

[Civil Air Regs., Amdt. 34-5]

PART 34—FLIGHT NAVIGATOR CERTIFICATES

AIRMAN IDENTIFICATION CARD

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 16th day of April 1953.

At the present time § 34.20 of Part 34 of the Civil Air Regulations provides that the holder of a certificate issued under the provisions of this part shall not exercise the privileges conferred by the certificate unless he has "in his possession" a current airman identification card. In the administration of this provision considerable difficulty has been encountered in enforcing the requirement that the identification card be carried on the person.

Since the present language of this section is believed to be capable of construction to mean other than carried on the person, this amendment is intended to bring this provision into line with the present requirements with regard to the carrying of airman and medical certificates by adding the word "personal" before the word "possession" and thereby clarify that the airman identification card is to be carried on the person.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 34 of the Civil Air Regulations (14 CFR Part 34, as amended) effective May 21, 1953:

By amending § 34.20 to read as follows:

§ 34.20 *Identification.* The holder of a certificate issued under the provisions of this part shall not, except while engaged in operations conducted by a scheduled air carrier, exercise the privileges conferred by the certificate unless he has in his personal possession a current airman identification card or other identification card acceptable to the Administrator which duly describes him. The airman identification card may be obtained from the Administrator who shall prescribe its form and the manner of applying for it.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. 601, 602, 52 Stat. 1007, as amended, 1003; 49 U. S. C. 551, 552)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 53-3537; Filed, Apr. 21, 1953; 8:54 a. m.]

[Civil Air Regs., Amdt. 35-5]

PART 35—FLIGHT ENGINEER CERTIFICATES

AIRMAN IDENTIFICATION CARD

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 16th day of April 1953.

At the present time § 35.21 of Part 35 of the Civil Air Regulations provides that the holder of a certificate issued under the provisions of this part shall not exercise the privileges conferred by the certificate unless he has "in his possession" a current airman identification card. In the administration of this provision considerable difficulty has been encountered in enforcing the requirement that the identification card be carried on the person.

Since the present language of this section is believed to be capable of construction to mean other than carried on the person, this amendment is intended to bring this provision into line with the present requirements with regard to the carrying of airman and medical certificates by adding the word "personal" before the word "possession" and thereby clarify that the airman identification card is to be carried on the person.

Interested persons have been afforded an opportunity to participate in the

making of this amendment, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 35 of the Civil Air Regulations (14 CFR Part 35, as amended) effective May 21, 1953:

By amending § 35.21 to read as follows:

§ 35.21 *Identification.* The holder of a certificate issued under the provisions of this part shall not, except while engaged in operations conducted by a scheduled air carrier, exercise the privileges conferred by the certificate unless he has in his personal possession a current airman identification card or other identification card acceptable to the Administrator which duly describes him. The airman identification card may be obtained from the Administrator who shall prescribe its form and the manner of applying for it.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. 601, 602, 52 Stat. 1007, as amended, 1008; 49 U. S. C. 551, 552)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 53-3538; Filed, Apr. 21, 1953; 8:54 a. m.]

[Civil Air Regs., Amdt. 51-3]

PART 51—GROUND INSTRUCTOR RATING

AIRMAN IDENTIFICATION CARD

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 16th day of April 1953.

At the present time § 51.6 of Part 51 of the Civil Air Regulations provides that the holder of a certificate issued under the provisions of this part shall not exercise the privileges conferred by the certificate unless he has "in his possession" a current airman identification card. In view of the nature of the employment in which the holders of such certificates are frequently engaged it is considered impracticable to require that such identification cards be carried on the person. Since the purpose of providing that such persons have prescribed identification cards may be accomplished if such cards are readily available upon demand, this amendment is intended to permit persons certificated under this part to keep their identification cards within the immediate area where the person normally exercises the privileges conferred upon him by his certificate.

In addition, several sections of the Civil Air Regulations previously were amended to provide that other identification cards acceptable to the Administrator could be used in lieu of the identification cards issued by the Administrator. The purpose of those amendments was to permit persons possessing identification cards such as those issued by the various branches of the armed forces to use such cards in lieu of the identification cards provided for by the regulations. It now appears desirable that this provision be made applicable to Part 51 by permitting the use of other identification cards acceptable to the Administrator.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 51 of the Civil Air Regulations (14 CFR Part 51, as amended) effective May 21, 1953:

By amending § 51.6 to read as follows:

§ 51.6 *Identification.* The holder of a certificate issued under the provisions of this part shall not exercise the privileges conferred by the certificate unless he has readily available a current airman identification card or other identification card acceptable to the Administrator which duly describes him. The airman identification card may be obtained from the Administrator who shall prescribe its form and the manner of applying for it.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. 601, 602, 52 Stat. 1007, as amended, 1008; 49 U. S. C. 551, 552)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 53-3539; Filed, Apr. 21, 1953; 8:54 a. m.]

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of Foreign and Domestic Commerce, Department of Commerce

Subchapter C—Office of International Trade

[6th Gen. Rev. of Export Regs., Amdt. 40 [1]]

PART 370—SCOPE OF EXPORT CONTROL BY DEPARTMENT OF COMMERCE

PART 371—GENERAL LICENSES

PART 372—PROVISIONS FOR INDIVIDUAL AND OTHER VALIDATED LICENSES

PART 373—LICENSING POLICIES AND RELATED SPECIAL PROVISIONS

PART 374—PROJECT LICENSES

PART 376—PERIODIC REQUIREMENTS LICENSE

PART 379—EXPORT CLEARANCE

PART 380—AMENDMENTS, EXTENSIONS, TRANSFERS

PART 383—APPEALS

PART 384—GENERAL ORDERS

PART 398—PRIORITY RATINGS AND SUPPLY ASSISTANCE

MISCELLANEOUS AMENDMENTS

1. Part 370, Scope of Export Control by Department of Commerce, is amended in the following particulars:

a. In § 370.1 *Definitions* paragraph (e) *Schedule B numbers* the last word of the paragraph, "1949", is amended to read "1952"

[1] This amendment was published in the new issue of the Comprehensive Export Schedule, dated March 31, 1953.

b. Section 370.5 *Arms, ammunition, and implements of war · helium,* § 370.6 *Gold and narcotics,* §370.7 *Exportation of commodities subject to Atomic Energy Act,* § 370.7a *Vessels, other than vessels of war* are renumbered § 370.4, § 370.5, § 370.6, and § 370.7, respectively.

2. Part 371, General Licenses, is amended in the following particulars:

a. In § 371.2 *General provisions,* the Note following subparagraph (3) *Exportations to foreign vessels in foreign ports* of paragraph (c) *Applicability* is amended to read as follows:

NOTE: The exportation of commodities under the provisions of General Licenses Ship Stores, § 371.13 (a), or Registered Carrier Stores, § 371.13 (d), is not affected by this provision.

b. In § 371.9 *General In-Transit License GIT* the note following subparagraph (2) *Shipments originating in Japan* of paragraph (b) *Special* provisions the parenthetical reference "(see § 373.14 of this subchapter)" is amended to read: (See § 372.4 of this subchapter)

c. Section 371.24 *General license GTF, goods imported for trade fairs* is renumbered § 371.16.

d. Section 371.26 *General license G-PUB, exportation of certain publications* is renumbered and redesignated to read as follows: "§ 371.20 *Exportation of certain publications G-PUB"*

e. Section 371.23 *General license for gift parcels* is renumbered § 371.21.

f. Section 371.28 *General license GHS, goods exported as trade samples* is renumbered § 371.22.

3. Part 372, Provisions for Individual and Other Validated Licenses, is amended in the following particulars:

a. In § 372.1 *Applicability and general provisions* the note following paragraph (b) *Applicability of provisions* is amended to read as follows:

NOTE: In addition to the individual license, there are the following types of validated licenses:

1. *Blanket license.* The blanket (BLT) license authorizes the exportation of all commodities requiring a validated license to two or more specifically named consignees at a given destination. (See Part 375 of this subchapter.)

2. *Project licenses.* Two types of project licenses, special project (SP) and dollar limit (DL), are used for authorizing exportations of all commodities required for a specific project or enterprise for a specific period. (See Part 374 of this subchapter.)

3. *Periodic Requirements License.* The Periodic Requirements (PRL) license authorizes the exportation of specified commodities during a specified period to one or more named ultimate consignees in a named ultimate destination. (See Part 376 of this subchapter.)

b. In § 372.1 *Applicability and general provisions* the parenthetical reference in the Note following paragraph (c) *Exportations requiring license* is amended to read as follows: "(See §§ 370.4, 370.5, 370.6, and 370.7 of this subchapter.)"

c. In § 372.3 *How to file an application for export license,* note 2, *Preparation of Form IT-419 (Revised April 1952)* following paragraph (c) *Information required* is amended by changing in Item 13 the reference to "§ 373.16" to read "§ 373.3"

d. Paragraphs (d) *Data supplementing the license application* and (e) *Letterheads and order forms* are deleted from § 372.3 *How to file an application for export license,* and as amended, become § 373.65 *Country Group R destinations.* (See the amendment to Part 373, below.)

e. In § 372.4 *License applications for in-transit shipments,* paragraph (b) *Applicability of special provisions,* the references to § 373.34, § 372.3 (d) § 373.22, and § 373.23 are amended to read "§ 373.2", "§ 373.65", "§ 373.67", and "§ 373.66" respectively.

f. In § 372.4 *License applications for in-transit shipments* a new paragraph (c) is inserted to read as set forth below. The provisions of this paragraph formerly made up § 373.14 *Special provisions for certain commodities originating in Japan.* This amendment makes no substantive change.

(c) *Shipments originating in Japan.* Shipments of Positive List commodities (§ 399.1 of this subchapter) which originate in Japan and are not exportable from the United States under General In-transit License GIT, or General License GO, or under the provisions of § 370.10 of this subchapter, relating to shipments from foreign trade zones, require a validated license for export. Applicants for licenses to export such commodities must disclose, in the commodity description column of Form IT-419, that the commodities originated in Japan; and the application must be accompanied by a true copy of the bill of lading covering the shipment of the commodities from Japan.

Paragraph (c) *Nature of exportations covered by provisions of this section* is redesignated paragraph (d). The references in Note 1 following paragraph (d) as redesignated, to § 373.51, § 373.29, § 373.16, and § 373.24 are amended to read "§ 373.71" "§ 373.44" "§ 373.3" and "§ 373.4" respectively. Note 2, following paragraph (d) as redesignated, is amended to read as follows:

2. For in-transit shipments under general license, see § 371.9 of this subchapter; and for special clearance procedures applicable to in-transit shipments see § 379.3 (b) of this subchapter.

g. Section 372.6 *Commodities exported for relief or charity* is amended by the addition of the parenthetical reference "(999810–999890)", so as to read as follows:

§ 372.6 *Commodities exported for relief or charity.* Applications for validated licenses to export commodities for relief or charity must show not only the appropriate relief category Schedule B number (999810–999890) but also the specific Schedule B number established for the commodity when shipped commercially.

h. In § 372.12 *Weight and volume tolerance,* paragraph (a) *10 percent tolerance* the Schedule B number of the commodity listing for medicinal and pharmaceutical preparations, "813593", is amended to read "829940"

4. Part 373, Licensing Policies and Related Special Provisions, is amended to read as follows:

SUBPART A—ORGANIZATION

SUBPART B—MULTIPLE COMMODITY GROUP PROVISIONS

SUBPART C—INDIVIDUAL COMMODITY GROUP PROVISIONS

COMMODITY GROUP 0

COMMODITY GROUP 1

COMMODITY GROUP 2

COMMODITY GROUP 3

COMMODITY GROUP 5

COMMODITY GROUP 6

COMMODITY GROUP 7

COMMODITY GROUP 8

COMMODITY GROUP 9

SUBPART D—DESTINATION PROVISIONS

SUBPART E—TIME SCHEDULES FOR SUBMISSION OF APPLICATIONS FOR LICENSES

AUTHORITY: §§ 373.1 to 373.71 issued under sec. 3, 63 Stat. 7; 65 Stat. 43; 50 U. S. C. App. Sup. 2023. E. O 9630, Sept 27, 1945, 10 F. R. 12245, 3 CFR, 1945 Supp.; E. O. 9919, Jan. 3, 1948, 13 F. R. 59, 3 CFR 1948 Supp.

SUBPART A—ORGANIZATION

§ 373.01 *Organization of sections*—(a) *General organization.* (1) The sections of this part, while numbered consecutively in the usual manner, are arranged into three separate divisions under the following main headings:

Multiple Commodity Group Provisions (§§ 373.1 to 373.10).
Individual Commodity Group Provisions (§§ 373.11 to 373.64).
Destination Provisions (§§ 373.65 to 373.67).

(2) The basis for the organization of the first two divisions is the "commodity group." Commodity groups are the major classifications of commodities exported from the United States as set forth on page xxxi of Schedule B, Statistical Classification of Domestic and Foreign Commodities Exported From the United States and also on the Positive List. There are 11 such groups, numbered 00 to 9, inclusive. The commodity group number of any commodity is the same as the first digit of the Schedule B number, except in the case of Group 00, where the first two digits of the Schedule B number indicate the commodity group.

(b) *Commodity provisions.* Under the heading "Multiple Commodity Group Provisions" are those sections (§§373.1 to 373.10) which apply to commodities in several or all commodity groups and cannot therefore be identified with a single commodity or commodity group. Under the heading "Individual Commodity Group Provisions" are the sections (§§ 373.11 to 373.64) containing the provisions for each commodity group, 00 to 9, inclusive, each such group being identified by the appropriate subheading "Commodity Group 1," "Commodity Group 2," etc. The sections under each commodity group number contain all special provisions applicable to any commodity having a Schedule B number the first digit of which corresponds with the commodity group number (except Commodity Group 00)

(c) *Destination provisions.* Under the heading "Destination Provisions" are all provisions relating solely to exportations to particular destinations without regard to the commodity involved; i. e., all commodities requiring a validated license for export are subject

to these provisions when exported to one of these destinations.

NOTE: The special provisions for particular commodity groups (§§ 373.11 to 373.64), "Individual Commodity Group Provisions," relate in some cases both to particular commodities and particular destinations. These provisions are considered "commodity" provisions in that they apply only to particular commodities when exported to these destinations, rather than to all commodities.

§ 373.02 *How to determine whether any special provision is applicable*—(a) *Commodity provisions.* To determine whether there are special provisions applicable to a particular commodity an applicant for export license need only take the first figure in his Schedule B number and then refer to the special provisions for that commodity group number. For example, carbon steel ingots, Schedule B No. 601602, is in Commodity Group 6, as indicated by the first digit of the Schedule B number. All special provisions for this commodity, as well as any other commodity having a Schedule B number beginning with the number 6, will be found in the sections under the subheading "Commodity Group 6" (§§ 373.39 to 373.47) If a commodity is subject to a multiple commodity group provision (§§ 373.1 to 373.10) a provision to this effect appears in the first section under the appropriate commodity group heading. Multiple commodity group provisions are not repeated in the individual commodity group provisions but are specifically referred to whenever applicable. For example, diamond powder, Schedule B No. 540910, is subject to the provisions of § 373.1. Under the heading "Commodity Group 5," the first section (§ 373.33) contains a provision to this effect. An applicant need not, therefore, refer to any of the multiple commodity group provisions in §§ 373.1 to 373.10 unless specifically directed to do so by the provisions appearing in the first section under his individual commodity group heading. After having made this determination, an applicant should refer to the other sections under the same commodity group heading to determine whether any of them apply to his commodity.

(b) *Destination provisions.* To determine whether there are special provisions applicable to a particular destination, an applicant need only consult the provisions under the heading "Destination Provisions," §§ 373.65 to 373.67. The section titles indicate the destinations covered; e. g., § 373.67, "Switzerland."

SUBPART B—MULTIPLE COMMODITY GROUP PROVISIONS [2]

§ 373.1 *Export licensing general policy.* The following general, but not exclusive, policy for export licensing and related procedures are hereby established for certain commodities, set forth in paragraph (h) of this section.

[2] Applicants should first consult the special provisions for the particular commodity groups in which commodities are classified before referring to provisions in §§ 373.1 to 373.10. (See §§ 373.01 and 373.02.)

(a) *Price*—(1) *Excessive prices.* (i) Price will be applied as one of the licensing criteria only when the export price for the specific commodity is obviously excessive.

(ii) Commodity advisory panels or commodity advisory committees will be consulted whenever possible in determining what constitutes obviously excessive prices.

(2) *Price stated on license applications.* The price to be stated on the export license application must be the export contract price, and the point of delivery must be clearly indicated. If point of delivery is other than the intended port of exit, the intended port of exit must also be shown. The exportation may not be made or invoiced at a price in excess of that stated on the validated license.

(3) *Where firm contract price not set.* Where the normal trade practice in a given commodity makes it impracticable to establish a firm contract price, the precise terms upon which the price is to be ascertained and from which the contract price may be objectively determined must be stated on the application. A mere statement by the exporter of "market price, at time of delivery or shipment" or other such general statement of price will not be acceptable.

(b) *Accepted orders; evidence and certification*—(1) *Accepted order* Exporters are required to hold, in connection with each license application for commodities subject to the provisions of this section, as set forth in paragraph (h) of this section, an accepted order covering the transaction between the applicant and the foreign buyer. Such transactions may, nevertheless, be conditioned upon satisfactory payment arrangements or upon the issuance of an export license, import permit, exchange permit, or such other government document as may be required.

(2) *Evidence of accepted order* Evidence of an accepted order may take the form of an original or photostatic copy of either the contract signed by both the exporter and the importer, or of letters, telegrams, cables, or other documents resulting in a contract between the applicant and the foreign buyer. Such evidence must be kept available for inspection upon demand by the Office of International Trade for 3 years from the date of receipt of the application.

(3) *Certification as to accepted order* (i) With respect to license applications covering the commodities subject to the provisions of this section, signature on the application by the applicant, his officer or duly authorized agent, constitutes a certification that the applicant holds an accepted order for one or more of these commodities covered in the application.

(ii) Where the transaction between the applicant and purchaser or ultimate consignee does not involve a normal purchase and sale contract in the customary form or where for other stated reasons the prescribed certification is inapplicable, the applicant should submit a full description of the nature of such transaction in writing to the Assistant Director for Export Supply, Office of International Trade, Washington 25, D. C., with a request for permission to substitute a proposed certification to fit the particular situation.

(4) *Representations; changes in accepted orders.* The answers to all questions in the application shall be deemed to be continuing representations of the existing facts or circumstances. Any material or substantive change in the terms of the contracts as reflected in the application or any certification made in connection therewith, whether a license has been granted or the application is still under consideration, shall be promptly reported to the Office of International Trade.

INTERPRETATION

EVIDENCE OF AN ACCEPTED ORDER

The following interpretation of § 373.1, Export Licensing General Policy, is issued concerning paragraph (b), Accepted Orders: Evidence and Certification:

1. *Definition.* Evidence of an accepted order means evidence of a contract which binds the exporter to sell and the importer to buy, but which may be conditioned as provided in § 373.1 (b). This contract may take the form of one document signed by both parties, or it may consist of an offer in definite terms made by either party and accepted in those same terms by the other party. Sometimes several documents have to be exchanged before all terms of a contract are agreed upon, and in such a case the documents which embody the agreement would be the evidence of the contract.

2. *Examples of documents which constitute evidence of an accepted order.* The following are examples of documents which ordinarily would constitute evidence of an accepted order:

(a) A contract signed by both exporter and importer.

(b) Telegrams, cables, letters or other documents exchanged between exporter and importer.

3. *Originals and copies of documents.* Originals need not be submitted; but if photostatic or other copies of documents are submitted, they must be certified by the applicant to be true copies of the originals, as provided in § 372.9 of this chapter. The Department of Commerce may demand the originals of any copies of documents submitted in support of applications.

Applicants may also submit originals or certified copies of any other documents, such as letters of credit, to clarify the terms and conditions of the contract.

All abbreviations, coded terms, or other expressions having special significance in the trade or to the parties to the transaction must be explained. Documents in a foreign language must be accompanied by an accurate English translation. Such translation need not be made by a translating service but, if not, must be certified by the applicant to be a correct translation.

4. *Shipments to foreign subsidiaries or distributors.* Where an exporter ships supplies or equipment to its foreign subsidiary or to distributors for use or resale, but it is not the practice for the subsidiary or distributor to submit or for the exporter to accept orders, evidence of accepted orders need not be submitted. The exporter must, however, submit a full statement of the nature of the transaction or arrangement, together with originals or certified copies of requisitions or other pertinent documents, explaining in such statement the end uses of the commodities involved.

5. *Shipments under other arrangements.* Where the exporter desires to ship commodities abroad under any other arrangement, a

full statement of the nature thereof must likewise be submitted, in the manner outlined in paragraph 4 above.

(c) *End use.* Where commodities are licensed for export on the basis of the specific end use to which the material will be applied abroad, applications will be considered for approval only if they conform to appropriate end uses.

(d) *Historical basis for granting export licenses.* A controlling factor in the granting of export licenses covering certain specified commodities (see § 373.4) is the historical basis, whereby the bulk of export quotas is reserved for exporters who have participated in exports of such commodities during a representative base period. Except for such commodities, the historical basis will not be the predominating factor in licensing commodities subject to the provisions of this section; it may, however, be taken into consideration, together with other criteria, when quotas are oversubscribed in order to ensure, insofar as possible, a fair and equitable distribution of available quotas. More particularly, it aids in accomplishing one of the underlying considerations in licensing; namely, the maintenance of a normal pattern of export trade.

(e) *Foreign government recommendations.* The Department of Commerce reserves the right in all respects to determine to what extent any recommendations made by foreign governments should be followed. However, the Department of Commerce will not seek or undertake to give consideration to recommendations from foreign governments as to the United States exporters whose license applications should be approved.

(f) *U. S. and foreign government procurement*—(1) *U. S. Government.* For such purchases as may be made by agencies of the United States Government, licenses, where required, will be issued to the United States purchasing agency or its designee making the export shipment, but such exports will be authorized only where it is evident that the use of private trade channels is inappropriate.

(2) *Foreign governments.* Procurement by foreign governments will be subject to continuous review in line with the announced policy of the United States to maximize the restoration of private trade, and in every instance the foreign government will be requested, before it buys any commodity, to establish the competitive nature of its procurement.

(g) *Commodity advisory panels and committees.* Commodity advisory panels and committees will be consulted regarding problems arising in the administration of the provisions of this section.

(h) *Commodities subject to this export licensing policy.* The export licensing policy set forth in the preceding paragraphs of this section shall be applicable to certain commodities within Commodity Groups 00–9, inclusive, which are specifically set forth in Subpart C of this part in the special provisions for each such commodity group.

§ 373.2 *Confirmation of country of ultimate destination and verification of actual delivery*—(a) *Scope*—(1) *General.* The provisions of this section shall apply to shipments for which a validated license is required covering the following commodities proposed for export or exported to the following countries:

(i) *Commodities.* The commodities subject to the provisions of paragraph (c) of this section, Submission of Import Certificates, are those commodities on the Positive List of Commodities (§ 399.1 of this subchapter) that are identified by the letter "A" in the column headed "Commodity Lists." All commodities on the Positive List of Commodities (§ 399.1 of this subchapter) are subject to the provisions of paragraph (d) of this section.

(ii) *Countries.* Belgium, Denmark, France, Italy, Luxembourg, Norway, Portugal, United Kingdom, Western Germany, Netherlands.

(2) *Exemptions.* The provisions of paragraph (c) of this section shall not apply to: (i) A shipment or application for export license covering a shipment under a project license; (ii) an application for license to export commodities classified in a single entry on the Positive List the total value of which, as shown on the export order, is less than $500, except where a multiple-transaction import certificate is filed in accordance with paragraph (c) (2) of this section; (iii) an application for license to export a commodity to a foreign government or government agency when such government or government agency actually placed the order with the applicant and will take delivery of the exportation when it is received in the importing country; (iv) a shipment made by a relief agency registered with the Advisory Committee on Voluntary Foreign Aid, Department of State, to a member agency in the foreign country.

(b) *Definitions.* As used in this section, the terms "import certificate" and "delivery verification" refer to documents issued by governments of countries listed in paragraph (a) of this section to importers in such countries and are the equivalent documents to the United States Declaration of Destination, Form IT–826, and Landing Certificate, Customs Form 3227, respectively (see § 368.1 of this subchapter)

(c) *Submission of import certificates*—(1) *Single-transaction import certificates.* (i) The applicant shall attach to his license application, covering a proposed exportation described in paragraph (a) of this section, the original import certificate, issued or certified by the government of the importing country, to the named importer or his agent and covering the commodity or commodities described in the export license application.

(ii) Where the single transaction import certificate covers commodities for which more than one export license application is submitted, the original import certificate shall be attached to the first such application. Each subsequent application shall contain a reference (OIT case number, if known, applicant's reference number, or other identifying information) to the application to which the original import certificate was attached and shall include the following certification:

I (we) certify that I (we) have not submitted applications including the present application against the _____ (Name of country) Import Certification Number _____ in excess of the total quantity authorized thereon.

(2) *Multiple-transaction import certificates.* Exporters may submit to the Office of International Trade an original import certificate if issued by the foreign government, covering all proposed exportations of a commodity or commodities, regardless of value (including those based on export orders amounting to less than $500), for a specific period. The exporter shall submit the original certificate, together with one additional copy for each OIT processing code to which the certificate applies and as listing of such processing codes. Each subsequent application for export license submitted against the multiple transaction import certificate shall bear on the face of the application one of the following certifications (depending on whether a quantity is shown on the import certificate) signed by the applicant:

I (we) certify that I (we) have not submitted applications including the present application against the _____ (Name of country) Import Certificate Number _____ in excess of the total quantity authorized thereon.

or (if no quantity is shown on the certificate),

This application is supported by the _____ (Name of country) multiple-transaction Import Certificate Number _____.

NOTE

1. *Translation requirements.* All abbreviations, coded terms, or other expressions having special significance in the trade or to the parties to the transaction must be explained. Documents in a foreign language must be accompanied by an accurate English translation. Such translation need not be made by a translating service, but, if not, must be certified by the applicant to be a correct translation. (See § 372.9 of this subchapter).

2. *Purchase order.* The import certificate may cover more than one purchase order and may be concerned with several commodities; however, the import certificate shall relate only to purchase orders placed by a single importer located in a single foreign country, with a single United States exporter.

3. *Applicant's responsibility for full disclosure.* In submitting import certificates the applicant is not relieved of responsibility for full disclosure of any other information concerning the ultimate destination and end use of which he has knowledge or belief, whether or not inconsistent with the representations set forth in the import certificate. In accordance with the provisions of § 381.1 of this subchapter, the applicant also shall, by means of supplementary statements from the importer or any other party to the transaction, notify the Department of Commerce of any change that is brought to his notice subsequent to the date the import certificate is issued or certified by the government of the country of ultimate destination.

4. *Import certificates as a factor in licensing.* The Department of Commerce reserves the right in all respects to determine to what extent any licenses shall be issued covering commodities for which foreign governments have issued import certificates. The Department of Commerce will not seek or undertake to give consideration to recommendations from foreign governments as to the United States exporters whose license

applications should be approved. Import certificates will be used by the Office of International Trade as only one of the considerations upon which licensing action will be based, since quotas, end uses, etc., must remain important factors in export licensing.

5. *Return of import certificates.* U. S. exporters may be requested by their foreign importers to return unused or partially used import certificates. In such cases the U. S. exporter should forward the certificate to his importer as soon as he determines that the certificate will not be used with a new or resubmitted license application, or an appeal. In order to meet these requests, import certificates on file in the OIT will be returned to exporters in accordance with the procedures indicated below:

(a) Where an import certificate covers a quantity in excess of the export license applications submitted against it, or does not specify the quantity covered, the OIT will retain the import certificate until such time as the exporter requests the return thereof. When requesting the return of the import certificate, the exporter should submit his request in writing, showing the name and address of the named importer, applicable OIT case numbers to which the certificate applies, import certificate number, and a statement that such import certificate will not be used in connection with a new or resubmitted application for export. Appropriate notation will be made on the certificate by the Office of International Trade.

(b) The OIT will automatically return the applicable import certificate to the U. S. exporter (applicant) whenever an application for export covers the same type and amount of the commodity as that shown on the import certificate, but such application is rejected or approved in a reduced quantity. Appropriate notation will be made on the certificate by the OIT.

(c) In instances where the U. S. exporter does not intend to ship the total quantity of commodities for which a license has been issued and desires the return of the import certificate, he should submit his request in writing for return of the certificate together with request for cancellation or amendment of the unexpired license to show the quantity which he intends to ship. (See § 380.2 of this subchapter.) In such cases exporters shall submit the amendment form, Form IT–763 (in addition to the letter request), as provided by the regular amendment procedure. Appropriate notation will be made on the import certificate by the OIT.

(d) *Submission of delivery verifications*—(1) *Notification of requirement.* Licensees may be requested by the OIT to submit a delivery verification with respect to any commodities exported under a validated license to a country listed in paragraph (a) including commodities not subject to paragraph (c) of this section and exceptions and exemptions granted under the provisions of paragraphs (a) (2) and (g) of this section. Where such verification is required, the face of the export license will bear the stamped words "Delivery Verification Required, see attached Form IT–863." In addition, Form IT–863, Notification of Delivery Verification Requirement, will be attached to the license. Where a Form IT–863 is attached to a license forwarded by the OIT to an agent or freight forwarder of the licensee, it shall be the responsibility of such agent to notify the licensee that a delivery verification is required.

(2) *Submission to the Office of International Trade.* When notified to do so by the Office of International Trade, persons issued licenses covering shipments within the scope of this section shall, within a reasonable time after clearance of last exportation made under the license: (i) Obtain from the named importer a verification of delivery which has been issued to the importer by his government covering the commodities described on the particular export license, or so much thereof (when complete shipment against the license will not be made) as the licensee will have shipped; and (ii) send the original copy of the delivery verification to the Office of International Trade. If a delivery verification is required with respect to commodities covered by a license and the licensee makes partial shipments against the license, the licensee shall obtain a delivery verification for each partial shipment and retain it in his files until all delivery verifications respecting shipments against the license have been received by him, and then send the original copies of all such delivery verifications to the Office of International Trade in one parcel.

NOTE

1. *Delivery verifications.* It will be the policy of the OIT to require delivery verifications on a selective basis where import certificates are required. Also, delivery verifications may be required relative to export licenses issued for exportation to any of the foreign countries participating in the IC/DV procedure, even though the licensed commodities are not subject to paragraph (c) of this section, or are commodities for which exemptions and exceptions have been granted under the procedure.

2. *Translation requirements.* See Note 1 following paragraph (c) of this section.

(e) *Effective dates.* Whenever the scope of this section is extended by adding additional commodities or countries to those described in paragraph (a) of this section, such changes shall become effective 45 days from the time such new commodities or countries are added.

(f) *Relationship to ultimate consignee statements.* The requirement for submission of consignee statements specified in § 373.65 shall not be applicable wherever import certificates are submitted pursuant to the requirements of this section.

(g) *Request for exception.* (1) Any license applicant affected by the provisions of paragraph (c) of this section may file a request for exception upon the grounds that the foreign importer has been unable to obtain the required document. Such requests will not be considered where the granting of an exception would be contrary to the objectives of the United States export control program. The OIT will consider exceptions where it is shown that this procedure is inapplicable to the transaction (e. g., the shipment will not be imported for consumption into the named country of destination) or that the refusal to issue the certificate constitutes discrimination against United States exporter, or for any other valid reason of similar importance. Each such request shall be by letter, in duplicate, accompanying the license application to which it applies, addressed to the OIT, Department of Commerce, Washington 25, D. C. The letter request should include, among other things, the nature and duration of the business relationship between the applicant and the importer shown on the license application; a statement as to the country or countries in which the commodities will be used; the reason or reasons for the foreign importer's inability to obtain the import certificate from his government; a statement as to whether the exporter has previously submitted to the OIT any import certificates issued in the name of the importer and a listing of such OIT case numbers, where applicable, and any other facts which would justify the granting of an exception. The applicant should also attach to his letter request, or have on file in the OIT, a statement from the consignee and purchaser in accordance with § 373.65. No request for exception will be considered or granted unless such statement is submitted or is on file in the OIT.

(2) Where the letter request relates to more than one license application, whether submitted at the same time or at a later date, and the same importer, destination and circumstances are involved, the letter request shall be attached to the first such application. Each subsequent application shall contain a reference to the OIT case number and the date of the OIT letter granting exception, if known, or if such information is unavailable, the applicant's reference number or other information which will identify these documents. In addition, each subsequent application shall include the following certification:

I (we) certify that the circumstances shown in the original request for exception, for which identifying information is furnished herewith, also exist with respect to this application.

(3) In granting an exception, the OIT reserves the right, as a prerequisite to such exception, to require special reports or other information as required to insure that there is no risk of transshipment to destinations to which the delivery of commodities exported under the exception procedure would represent a contravention of the export control objectives.

NOTE

1. Applicants are advised that delay may be entailed in the review of a license application under this exception clause in view of the necessary added consideration.

2. The Office of International Trade can give no assurance that an export license will be issued for any exportation where an exception to this section is requested. It must be recognized that delay will usually be present in processing such applications, although the Office of International Trade will process the applications as quickly as possible.

EXPLANATORY STATEMENTS AND INTERPRETATIONS

1. Q. Why does the Office of International Trade require a delivery verification on the same transaction for which it requires an import certificate?

A. One of the primary purposes of the import certificate requirement is to obtain from the foreign importer certain material representations which he makes to his own government and for which he is subject to punitive action by his government in the event that his representations were false when made, or if he fails to live up to such representations. In order to determine

whether an importer has fulfilled his obligations under an import certificate, it is necessary to note, after the fact, that he has imported the shipment into the jurisdiction and control of the customs of his country. This is the purpose that is served by the delivery verification. The delivery verification procedure places the responsibility for the discovery of violations on the exporting country which is where the governments of the participating countries believe the responsibility should lie.

2. Q. What is the exporter's responsibility for obtaining a delivery verification?

A. When an export license is issued with a requirement that a delivery verification be obtained, the delivery verification requirement is a condition of the use of the license. Thus, an exporter properly uses the export license only if he fulfills this condition, or uses every reasonable means to do so. An exporter who fails to request the required delivery verification from his importer has not fulfilled the conditions of his export license, and is subject to enforcement action. Of course, all export licenses, whether containing a requirement for a delivery verification or not, contain a condition of delivery to the named country of ultimate destination as provided on the face of the license.

3. Q. What is the exporter's responsibility if a delivery verification is not forthcoming?

A. If an exporter is unable to obtain the required delivery verification from his importer, despite all reasonable efforts to do so, it is his responsibility to report promptly to the Office of International Trade his inability to obtain a delivery verification, and to make available to the Office of International Trade a full and complete record of his correspondence with the importer, and any other information which he may have, relating to the export transaction. Unless requested by the Office of International Trade to take further steps, the exporter's responsibility in the transaction will then usually have been completed. The Office of International Trade through its regular procedures will investigate with the importing country to ascertain whether the goods were, in fact, delivered into the commerce of the country, and at the same time will determine what course of action should be taken with respect to the importer abroad.

4. Q. Does the Office of International Trade have a procedure for multiple-transaction import certificates comparable to the multiple-transaction ultimate consignee statements (For IT-843)?

A. Paragraph (c) (2) of § 373.2 contains a procedure for multiple-transaction import certificates similiar to that for multiple-transaction ultimate consignee statements. The procedure provides that when an exporter avails himself of use of the multiple-transaction import certificate, he shall submit to the Office of International Trade the original import certificate, a copy of the certificate for each Office of International Trade processing code covered by the certificate, and a listing of the processing codes to which the certificate applies. Applications submitted against the multiple-transaction import certificate shall bear on the face of the export license application one of the applicable certifications provided for in paragraph (c) (2).

5. Q. If an exporter participates in a transaction or series of transactions in which the commodities will not be entered into the commerce of the importer's country, and if for this reason or otherwise the importer is precluded from obtaining an import certificate from his government, how can the U. S. exporter obtain an export license?

A. In such instances, the exporter will file a letter requesting an exception under § 373.2 (g), setting forth the information required by that section.

In addition, an ultimate consignee and purchaser statement (Form IT-842) or a multiple-transaction statement (Form IT-843), where applicable, completed by the importer shall also be submitted in accordance with § 373.65.

If upon analysis of this request for exception, the facts contained therein are verified, and if the granting of an exception in such case is not contrary to the objectives of the U. S. export control program, the Office of International Trade will issue a letter to the exporter granting his request for exception and his applications for export licenses filed in connection with these transactions will be processed in the usual manner on the basis of the ultimate consignee and purchaser statement submitted in lieu of the import certificate.

6. Q. How can the exporter mentioned in Question 5 obtain subsequent licenses?

A. In the event that an exporter finds it necessary to file subsequent applications for export licenses to cover the same transaction or additional transactions of the same kind for which an exception to the import certificate procedure has been granted him by the Office of International Trade, it will be necessary for him to state on the face of each such application that he has been granted an exception from the import certificate procedure and identify, by date, the letter of exception which he previously received from the Office of International Trade, and the case number to which his original request for exception was attached. In addition, it will be necessary for him to submit with each such application an ultimate consignee and purchaser statement (IT-842) or refer on the face of the application to the multiple transaction ultimate consignee and purchaser statement (IT-843) on file with the Office of International Trade.

7. Q. Will there be any delay in processing applications submitted with a request for exception? What considerations in these kinds of transactions delay the processing and would not be relevant if an import certificate were available?

A. When an import certificate is available, it carries with it certain assurances and safeguards which materially reduce the amount of independent checking which the Office of International Trade must do in order to assure itself that the export transaction will be carried through in the best interests of our national security. Consequently, when an import certificate is not available, it becomes necessary in some cases to establish adequate checks and action on the application may thus be delayed.

8. Q. Does the $500 exemption under the IC/DV procedure mean that, to be eligible for such exemption, a complete order must be under the $500 limit, or does it mean that part of an order relating to a single entry on the Positive List must be under the $500 limit?

A. The $500 exemption is to be applied to that part of an order relating to a single entry on the Positive List. Where an order from the foreign customer includes commodities relating to several entries on the Positive List and the value of each is less than $500, but the aggregate total value of all commodities included in the order is more than $500, the exemption still applies.

9. Q. When is an import certificate not required?

A. (a) Project licenses.

(b) Applications for commodities to be imported by a foreign government or government agency when such government or government agency actually placed the order with the applicant and will take delivery of the exportation when it is received in the importing country.

(c) Applications submitted by relief agencies registered with the Advisory Committee on Voluntary Foreign Aid, Department of State, when such shipments are being made to a member agency in the foreign country.

(d) Commodities exported under general license.

(e) Single entries on the Positive List, the total value of which is less than $500 as shown on the export order.

(f) If any case where a specific exception is granted by the Office of International Trade.

10. Q. Does the IC/DV procedure apply in the case of exports to overseas territories of countries participating in the IC/DV system?

A. The procedure is at present inapplicable. If the physical movement of the shipment is direct from the U. S. to such an overseas territory, the import certificate procedure is inapplicable, and a statement of end use and destination is required from the purchaser and ultimate consignee in Country Group R destinations, in accordance with § 373.65.

11. Q. When only part of an order includes a commodity subject to the IC/DV procedure, may the import certificate be secured and utilized to cover the entire order (including commodities not subject to the procedure) to avoid the necessity for securing an ultimate consignee statement of end-use and destination for the commodities not subject to the IC/DV procedure?

A. Yes, if the import certificate covers all of the commodities listed on the application. However, import certificates are expected to be issued only for those commodities identified on the Positive List by the letter "A." U. S. exporters generally should not request import certificates from the importer for other commodities, but instead should require a consignee/purchaser statement to cover these items.

12. Q. If a U. S. exporter has received an export license issued prior to October 20, 1952, which he was not able to use until after October 20, 1952, must he secure an import certificate under the IC/DV procedure in order to use that export license?

A. No. The import certificate must be submitted with the application. If a license has already been issued prior to October 20, the regulation does not require the ex post facto submission of an import certificate. If the license expires without being used in whole or in part, an application submitted for an export license to cover the same transaction or for the unshipped balance of the transaction must be accompanied by an import certificate.

13. Q. Will an import certificate be required on applications pending in OIT after October 20, 1952, even though such applications are subsequently returned without action for quota reasons or technical deficiencies?

A. Applications originally received by OIT prior to October 20 without an import certificate and subsequently returned without action for other reasons, after that date, may be resubmitted without an import certificate unless specific request is made by OIT to obtain an import certificate. If neither an import certificate nor an ultimate consignee and purchaser statement were submitted with the original application, OIT will require an import certificate when the application is resubmitted.

NOTE: If a resubmitted application must be made on the new Form IT-419 revised April 1952, and if the case falls within that group that may be resubmitted with a consignee/purchaser statement, the applicant should refer to the previous OIT case number so that it will not be returned without action for an import certificate. In addition, the requirements of the Note following § 372.2 (f) of this subchapter shall be observed.

14. Q. May a certified copy of an import certificate be submitted in lieu of an original?

A. No. The original of the import certificate must be submitted with the export

license application. It has been agreed upon internationally that only original import certificates will be accepted by the exporting government authorities in connection with applications for export licenses. In every case where more than one application (Form IT–419) is submitted in connection with a single transaction import certificate, the procedure described and set forth in § 373.2 (c) (1) may be followed.

15. Q. What is the significance of the validity period or expiration date on an import certificate?

A. As long as the import certificate is received in the Office of International Trade prior to its expiration date, neither extension nor a new certificate is required. In the event that an import certificate is submitted to the OIT after its expiration date, it will be returned to the applicant for amendment or submission of a new certificate. The expiration date on the import certificate in no way affects the validity period for which the export license is granted.

16. Q. Will an import certificate be accepted if the value shown thereon is less than that shown on the export license application?

A. If the commodity is licensed by OIT on the basis of total dollar value, a license will not be issued in excess of the total dollar value shown on the import certificate. If the commodity is licensed by OIT on the basis of units of measure, the license will not be issued in excess of the total units of quantity shown on the import certificate. If in the latter case, the total dollar value shown on the import certificate is less than that shown in the application (Form IT–419), a new or amended import certificate will not be required unless the difference in value is significant.

17. Q. Will OIT require delivery verifications on export licenses where the values are less than $500 and which do not, therefore, require import certificates as a prerequisite to the submission of the application?

A. Occasionally OIT will request a delivery verification on such a transaction even though an import certificate was not required with the submission of the license application.

18. Q. From whom is the import certificate required where the purchaser and the ultimate consignee are different parties and located in the same country?

A. An import certificate will be accepted by OIT from either party to the transaction. Participating governments generally issue import certificates to that party to the transaction taking the responsibility for entering the shipment into the commerce of the country.

19. Q. From whom is the import certificate required where the purchaser and ultimate consignee are different parties, located in different countries, and both countries are participants in the IC/DV system?

A. An import certificate will be required from that country to which the goods are shipped directly from the United States.

20. Q. From whom is the import certificate required where the purchaser and ultimate consignee are different parties, located in different countries, one country being a participating country and the other a nonparticipating country?

A. If the physical movement of the shipment is from the United States to a participating country, an import certificate will be required from the importer in the participating country regardless of whether the importer is the purchaser or ultimate consignee. On the other hand if the physical movement of the shipment is direct from the United States to a non-participating country, the import certificate procedure is inapplicable and a consignee/purchaser statement is required from the purchaser and ultimate consignee in accordance with § 373.65.

21. Q. Is an import certificate acceptable if the United States exporter is not named in the document?

A. An import certificate will not be acceptable if the United States exporter named in the import certificate does not appear as the applicant or the U. S. supplier on the United States export license application. It would be impossible to assure that the import certificate and the export license application represent the same transaction unless the applicant or the United States supplier named on the export license application also was named in the import certificate.

22. Q. For purposes of exemption from the Import Certificate requirement, what is a government agency?

A. The term "government agency" is construed to mean only those governmental departments operated by government paid personnel performing governmental administrative functions and not operated for profit. It does not include quasi-government agencies established or controlled by the government which perform commercial functions (e. g., resale or redistribution of goods of U. S. origin for commercial purposes).

23. Q. Should Form IT–863, Notification of Delivery Verification Requirement, be forwarded to the foreign importer in order to obtain a delivery verification?

A. No. Form IT–863 is a notification to the licensee that he is required to obtain a delivery verification from the foreign importer, and it should not be forwarded to the importer.

24. Q. Is a DV ever required for a transaction for which an IC was not required either by exemption or exception or because the commodity is not subject to the IC/DV procedure?

A. Yes. A DV may be required relative to any export license issued for exportation to any of the foreign countries participating in the IC/DV procedure, including commodities not requiring an import certificate as well as commodities for which exemptions and exceptions have been granted under the procedure.

§ 373.3 *Evidence of availability*—(a) *General provisions.* Applications for licenses to export the commodities identified on the Positive List of Commodities (§ 399.1 of this subchapter) by the letter "D" in the column headed "Commodity Lists" will be considered for approval only when such applications contain, or are accompanied by, evidence that the commodities will be available to the applicant for export within the normal validity period applicable to licenses covering such commodities, as set forth in § 372.11 (e) of this subchapter. The nature of the evidence required of applicants who are producers and applicants who are not producers of the commodities subject to the provisions of this section is set forth in paragraphs (b) and (c) of this section.

NOTE: As set forth in § 372.11 (e) of this subchapter, the normal validity period for export licenses in 6 months unless otherwise stated on the license. A longer period may be granted for licenses covering commodities requiring long-term production periods (e. g., certain heavy machinery and fabricated steel items) if a validity period exceeding 6 months is requested and justified at the time the application is filed. (See § 373.49 with respect to applications covering heavy machinery.)

(b) *Nature of evidence of availability required from producers.* An applicant who indicates in item 13 of Form IT–419 that he is a producer of the commodities for which an export license is requested should also enter in item 13 (as the approximate delivery date) the date on which the commodities will be available for export. The evidence of availability requirements of this section will be met if the date shown is within the validity period of licenses covering such commodities, as set forth in § 372.11 (e) of this subchapter. If more than one delivery date is required, each date must be within the validity period. (See Note 2 following § 372.3 (c) of this subchapter with respect to item 13 of Form IT–419.)

(c) *Nature of evidence of availability required from non-producers*—(1) *Commodities with processing code other than STEE.* An applicant for exportation of those commodities subject to these provisions whose processing code (as shown in § 399.1 of this subchapter) is other than STEE, who indicates in item 13 of Form IT–419 that he is not a producer of the commodities for which an export license is requested, may meet the evidence of availability requirements of this section by supplying additional evidence of availability in one of the following documentary forms:

(i) *Evidence of ownership.* Evidence of ownership may consist of a bill of sale or invoice, or other documentary proof that the commodities covered by the application, in the amounts stated, are in fact in the applicant's possession or are available to him.

(ii) *Letter of commitment.* A letter of commitment from a producer of the commodity which must be dated, and must show (*a*) the quantity accepted or committed, and (*b*) the approximate delivery dates. All delivery dates must be within the validity period of licenses covering the particular commodities. Letters of commitment which are more than 90 days old when the application is received by the Department of Commerce (or, where applicable, letters for commodities subject to time-table licensing which will be more than 90 days old on the last day for filing applications for the calendar quarter) will not be accepted.

NOTE: Where a document described in subdivision (i) or (ii) of this subparagraph is used in support of more than one application, a true copy (as set forth in § 372.9 of this subchapter) must be attached to each application to which the document applies. Each application shall contain a reference to the case number (or applicant's reference number, if the case number is unknown) and date of all other applications submitted at any time against the same document.

(2) *Commodities with processing code STEE (other than Controlled Materials)* An applicant for exportation of those commodities subject to these provisions whose processing code, as shown in § 399.1 of this subchapter, is STEE, who indicates in item 13 of Form IT–419 that he is not a producer of the commodities for which an export license is requested, may meet the evidence of availability requirements of this section by showing certain information, pertaining to a supplier acceptable to the Office of International Trade, in item 13 of Form IT–419:

(i) That the commodities covered by the application have been purchased from the named supplier; or that an order for such commodities has been placed with and accepted by the named supplier and

(ii) That the approximate delivery date for such commodities is within the validity period of licenses covering these commodities, as set forth in § 372.11 (e) of this subchapter. In order to be acceptable to the Office of International Trade, the applicant's supplier must be a producer, or, if the applicant's supplier is other than a producer, he must meet the requirements indicated below with respect to the commodities listed in the application for export license:

(*a*) He must be a warehouseman, jobber, dealer, or retailer engaged in the business of stocking the commodities at one or more locations regularly maintained by him for such purpose, for sale or resale, in the form or shape as received, or after performing minor nonmanufacturing operations thereon, and who, in connection with any purchase of the product or products for resale, takes physical delivery of them into his own stock at a location regularly maintained by him for such purpose.

(*b*) He must maintain a minimum inventory at least equal to the quantity covered by the application.

(*c*) He must make monthly sales at least equal to the quantity covered by the application.

NOTE: Applicants whose non-producer suppliers have not heretofore been accepted by the Office of International Trade shall accompany their applications for export license with a letter from their suppliers stating their qualifications in the above respects.

§ 373.4 *Statement of past participation*—(a) *Statement of past participation*—(1) *General.* (i) Oversubscription of export quotas for an increasing number of commodities in short supply indicates a greater use of the historical pattern of exports as a factor in the granting of export licenses in order to obtain a more equitable distribution of available quotas. More particularly, it aids in accomplishing one of the underlying considerations in licensing; namely, the maintenance of a normal pattern of export trade. Under this method of license issuance, the bulk of export quotas is reserved for those firms who have participated in exports during a representative base period. However, licensing on the historical basis does not preclude participation by exporters who do not have a record of past participation in exports during the base period since a certain portion of the quota is also reserved for those exporters within this category. Where necessary, a portion of the quota will also be set aside for especially urgent needs, such as military or defense-supported requirements.

(ii) This section sets forth the general provisions for submission by exporters of a statement of past participation in exports for the indicated commodities.

(2) *Requirement to file.* Applicants for licenses to export any commodities subject to the provisions of this section are required to submit to the Office of International Trade a statement of past participation in exports of that commodity on Form IT–821, in duplicate, excluding exports specified in subparagraph (5) of this paragraph. Such commodities are set forth specifically in the special provisions applicable to each particular commodity group in which these commodities are classified. This information shall be filed only once by an applicant, unless there is a change in the name of the reporting firm or in its relation with other firms. At the time of such change, a new Form IT–821 shall be submitted which refers to the original form and contains the new information. In order to be considered in relation to a specific quota, the completed Form IT–821 must be received in the Office of International Trade prior to the termination date for filing applications under that quota. The submission of this information does not guarantee that the applicant will receive a license for the full amount or any portion of the commodities covered by his license application.

(3) *Restrictive quota participation.* A single firm shall be entitled to only one participation in each quota established for each category of commodities subject to the provisions of this section. The filing of dual applications or the claiming of an additional participation through any device whatsoever may result in the denial of export licensing privileges to all persons concerned.

(4) *Form IT–821.* The following information, in addition to other information specified on the form, shall be submitted on Form IT–821.

(i) On separate Forms IT–321 for each category of commodities, the total quantity of exports, excluding shipments covered by subparagraph (5) of this paragraph, from the United States to all foreign countries other than Canada, except as otherwise specified in the special provisions applicable to a particular commodity group, shipped in the exporter's name, i. e., for his own account, during the base period specified for each such category of commodities, as set forth in the special provisions for the commodity groups in which such commodities are classified (Subpart C of this part).

(ii) The names of each exporter, dealer, manufacturer, or other business organization (whether an individual, partnership, association, corporation, or other type of business organization) engaged in the export of the particular commodity being reported which is directly or indirectly owned or controlled by the applicant or which directly or indirectly owns or controls the applicant's operations. The date (month and year) when each such firm or organization was established and its relationship to the applicant's operations shall also be included.

(5) *Exports excluded from report.* Unless specifically requested, exportation of any commodity subject to the provisions of this section under conditions indicated below shall not be included in this report. Those exporters who previously filed Form IT–821 and included thereon exports shipped under such conditions shall file an amended Form IT–821 excluding these shipments.

(i) Shipments to territories, dependencies and other possessions of the United States and Trust Territory of the Pacific Islands, i. e., the Caroline Islands, the Marshall Islands, and the Marianas Islands.

(ii) Toll shipments.

(iii) In-transit shipments.

(iv) Shipments under project licenses.

(v) Shipments to Canada.

(6) *Successors in interest.* A successor firm which has acquired the business interest of a predecessor may include its predecessor's record of past participation in exports for the purpose of establishing the successor firm's position as an historical exporter, provided that the predecessor is not entitled to claim the same past participation in exports. Such successor firm may submit Form IT–321 for consideration by the Office of International Trade and set forth thereon, or on an attached statement, a full explanation of the association between the entities concerned and including the following signed statement:

The terms of acquisition of the business interests of (name of predecessor firm) by (name of successor firm) precludes the predecessor firm from claiming past participation in exports for the purpose of obtaining export licenses under the historical pattern of export licensing.

NOTE: In the absence of a report on Form IT–821, OIT will assume that the applicant's total exports for each commodity were less in each of the specified calendar years than the established minimum amount (as shown in the special provisions for the commodities subject to this section) for submission of Form IT–821, and his application for an export license will be considered under a portion of the export quota reserved for exporters in this category.

(b) *Commodities requiring statement of past participation.* The commodities subject to the provisions of this section are specifically set forth in the special provisions applicable to the particular commodity groups in which these commodities are classified. The special provisions for each such commodity group also set forth any modification of the provisions of this section with respect to the commodities within that group.

§ 373.5 *Exports to serialized mines, smelters and mineral prospecting operations abroad.* License applications filed for export of commodities to any foreign mine (other than petroleum, solid fuels, uranium and natural gas) a nonferrous smelter, or mineral prospecting operation that has had a serial number assigned thereto by the Defense Materials Procurement Agency (formerly Defense Minerals Administration) shall plainly show such serial number in the commodity description column of the license application, Form IT–419.

§ 373.6 *Export licensing policy for materials covered by NPA M (materials) orders.* (a) Under the authority of the Defense Production Act of 1950, the National Production Authority has issued numerous orders limiting production of commodities or restricting the uses to which commodities may be put. The purpose of these orders is to conserve

the supply and channel production into essential uses for national defense.

(b) In general, it will be the policy of the Office of International Trade, in considering export license applications covering commodities subject to such orders, to limit approvals to end uses consistent with end uses permitted in the domestic economy.

(c) In order to administer this policy, it may be necessary for the Office of International Trade to return license applications to the applicants for the purpose of obtaining a more detailed and comprehensive statement of end use, which will enable the Office of International Trade to consider the application in the light of the domestic restrictions. Applications covering shipments for resale, further distribution, or fabrication in the foreign country should specify particularly the end use to which the commodities will be put by the ultimate consumer, in order to expedite the consideration of such applications.

§ 373.7 *Commodities for which supply assistance is requested.* Special provisions for certain license applications covering commodities for which supply assistance is requested at the same time the license application is filed with the Office of International Trade, are set forth in Part 398 of this subchapter.

SUBPART C—INDIVIDUAL COMMODITY GROUP PROVISIONS

COMMODITY GROUP O

§ 373.13 *Applicability of multiple commodity group provisions to commodity group O commodities*—(a) *Export licensing general policy.* The following commodities within Commodity Group O are subject to the provisions of § 373.1. Cattle hides, wet, Schedule B No. 020104; calf skins, wet (including slunk skins) Schedule B No. 020604; and kip skins, wet, Schedule B No. 020704.

§ 373.14 *Wet cattle hides.* Applications for licenses to export wet cattle hides, Schedule B No. 020104, must show, in the commodity description column of Form IT-419, the number of hides weighing less than 58 pounds each. If no hides weighing less than 58 pounds are included in the proposed shipment, the applicant must so state in the commodity description column.

COMMODITY GROUP 1

§ 373.18 *Rice.* These provisions are established to provide for the consideration of applications to export rice, Schedule B Nos. 105500, 105710, and 105750, by country and area.

(a) *Licensing of exports to Cuba*—(1) *Initial licenses.* Each applicant may receive license(s) in an aggregate amount equal to 10 percent (rounded to the nearest 1,000 bags) of the average annual shipments of rice he made to Cuba during the period August 1, 1949, through July 31, 1952, or 1,000 bags, whichever is greater; but in no case will an applicant be issued licenses for an amount in excess of 40,000 bags, *Provided,* (i) The applicant submits to the Office of International Trade a Form IT-821 completed in accordance with § 373.4, subject to the following modifications: The report on Form IT-821 shall show the quantity of rice under each classification exported to Cuba during the crop marketing years of 1949–50, 1950–51, 1951–52. In addition, exportations during the month of August 1952 shall be shown in Column A of Form IT-821. The crop marketing year will be considered to have begun on August 1 of each year and to have ended on July 31 of the following year. Quantities will be stated in number of 100-pound bags, or in pounds if the shipment was made in bulk.

(ii) Each license application is accompanied by a true copy of an irrevocable letter of credit or copy of a domestic bank's advice of an irrevocable letter of credit opened for the account of the purchaser or ultimate consignee. Such copy must show that the original document was officially signed by the issuing or advising bank. In addition, the applicant must certify in each case the amount of the unused balance of the letter of credit.

(2) *Additional licenses.* (i) An applicant who has received licenses authorizing shipment of 10,000 bags, or more, of rice to Cuba under this procedure may apply for and receive additional licenses upon submission of (*a*) true copies of on board ocean bills of lading, bearing the export license numbers showing that he has actually shipped against the licenses previously granted under this procedure, in an amount equivalent to that for which he is applying; and (*b*) true copies of irrevocable letters of credit or copies of a domestic bank's advice that irrevocable letters of credit have been established for the account of the purchaser in accordance with subparagraph (1) (ii) of this paragraph.

(ii) An applicant who has received licenses authorizing shipment of less than 10,000 bags of rice to Cuba under this procedure may apply for an amount up to twice the amount he has shipped, as shown on the certified copies of on board ocean bills of lading, accompanying such application, provided such amount together with the unshipped balances of any licenses previously granted to him does not exceed 10,000 bags. Applications here also must be accompanied by true copies of irrevocable letters of credit or copies of a domestic bank's advice that irrevocable letters of credit have been established for the account of the purchaser in accordance with subparagraph (1) (ii) of this paragraph. When an applicant qualifies to hold licenses covering 10,000 bags, subsequent license applications shall be submitted in accordance with subdivision (i) of this subparagraph.

(iii) Applications will be considered for validation in the order they are received until the quota has been exhausted, after which time they will be held for consideration during the next succeeding period in the order they were received. License applications accompanied by letters of credit which by their terms expire before shipment can be effected after the beginning of the next licensing period, will be returned to the applicant without action.

(b) *Licensing of exports to Far Eastern countries*—(1) *Supporting information.* Each application must be supported by (i) A true copy of the sales contract with the foreign purchaser; (ii) a true copy of the letter of credit; (iii) evidence that the applicant has rice available to cover the sales contract; and (iv) the import license number, where an import license is required by the importing country.

(2) *Sales prior to September 10, 1952.* Applications to be considered under the provisions of this paragraph must be received fully documented in OIT not later than December 22, 1952. Applications in this category received subsequent to December 22, 1952, will be considered in accordance with the provisions of subparagraph (3) of this paragraph. Preference in licensing action will be given to license applications based on sales contracts entered into prior to September 10, 1952, and which meet the provisions of subparagraph (1) of this paragraph. Licenses will be granted in the full amount of application if the total of all such applications for a specific country does not exceed the allocation to that country. If the total of all such applications for a country exceeds the allocation, licenses will be prorated and certain quantity adjustments may be made to facilitate shipments in cargo or half-cargo lots.

(3) *Sales on and subsequent to September 10, 1952.* Applications based on sales entered into on and subsequent to September 10, 1952, and applications under the provisions of subparagraph (2) of this paragraph received subsequent to December 22, 1952, which meet the conditions of subparagraph (1) of this paragraph, will be considered for licensing if the total of those licenses issued in accordance with subparagraph (2) of this paragraph does not exhaust the country allocation. These applications, if fully supported as specified in subparagraph (1) of this paragraph, will be considered in the order of receipt in the OIT.

(c) *Defense and occupied areas.* Rice allocations to the Department of Defense and to occupied areas (South Korea and the Ryukyus) will be purchased by the Quartermaster Corps and the Commodity Credit Corporation.

(d) *Licensing of exports to other countries and areas.* Each application must be supported by (1) A true copy of the sales contract with the foreign purchaser; (2) a true copy of the letter of credit, or evidence of any other means of financing to be used; and (3) the import license number where an import license is required by the importing country.

NOTE: A "true copy" as used in this section is a photostatic or other copy of an original document which is certified by the applicant, either on the face of the photostatic or other copy or on an attachment which identifies the document, to be a true and correct copy in acordance with the provisions of § 372.9 of this subchapter.

All licenses issued against the January-March 1953 allocation will expire April 30, 1953, except for applications receiving spe-

cial handling which will be valid for only 30 days from date of issuance.

COMMODITY GROUP 2

§ 373.20 *Applicability of multiple commodity group provisions to commodity group 2 commodities*—(a) *Import certificate/delivery verification requirement.* All commodities within Commodity Group 2 which are identified on the Positive List of Commodities by the letter "A" in the column headed "Commodity Lists" are subject to the provisions of § 373.2.

(b) *Past participation in exports.* The provisions of § 373.4 are applicable to truck and bus casings, off-the-road casings, farm tractor and implement casings, and industrial casings, Schedule B Nos. 206000, 206430, 206440, 206460, and 206490, subject to the following modifications: Separate reports on Form IT–821 shall be submitted reflecting the quantity, in number of units of exports from the United States, made during each of the calendar years 1948, 1949, and 1950 to the following countries. This report shall be submitted only where the total of all such exports to all of these countries was $10,000 or more during any one year for casings classified under Schedule B Nos. 206000, 206430, 206440, 206460, and 206490.

Belgian Congo.	Lebanon.
Belgium.	Malaya.
Finland.	Philippine Islands.
France.	Singapore.
French Morocco.	Sweden.
Indonesia.	Switzerland.
Iran.	Syria.
Iraq.	Thailand.
Israel.	

§ 373.21 *Tobacco and tobacco products destined to Hong Kong*—(a) *Licensing of exports for consumption in Hong Kong.* Applications for licenses to ship tobacco and tobacco products, Schedule B Nos. 260110–262950, of United States origin for sale and consumption in Hong Kong (the local duty-paid Hong Kong market) will be considered each quarter in total quantities not to exceed one-fourth of the total amount of such commodities sold for consumption in Hong Kong during the calendar year 1951. The amount licensed to any individual applicant generally will be based upon the proportion of that applicant's participation in the sales for consumption in Hong Kong during the combined calendar years 1949 and 1950. In addition, a small portion of the quota will be reserved for exporters who did not participate in sales for consumption in Hong Kong during the established period.

(b) *Licensing of exports for transshipment or reexportation through Hong Kong to other destinations*—(1) *Resale from stock in Hong Kong warehouses.* Applications for licenses to export tobacco and tobacco products of United States origin to Hong Kong for storage in warehouses, resale, and reexportation to one or more authorized destinations other than the Hong Kong consumers market will be considered in quantities not to exceed the minimum inventory requirements of the Hong Kong consignee, provided the following is shown on the application or an attachment to it:

(i) The business operations of the Hong Kong consignee of the commodities for storage, resale, and reexportation cannot be reasonably and adequately served except through such warehousing, resale, and reexportation practices.

(ii) The minimum inventory requirement and the current inventory of each commodity to be exported, together with a statement that such inventory will not exceed minimum requirements after receipt of the commodities covered by the application.

(iii) The tobacco and tobacco products licensed for shipment under this paragraph will be stored in bonded warehouses by the consignee named on the license application pending resale and reexportation.

NOTE: Licenses issued under this subparagraph will contain the following statement: "These commodities licensed by the United States for exportation to Hong Kong for distribution or resale to destinations other than Hong Kong, Macao, or Subgroup A countries only. Distribution or resale in Hong Kong or transshipment except as specifically provided by United States law is prohibited."

(2) *Transshipments through Hong Kong.* A validated license is not required to transship tobacco and tobacco products exported from the United States under General License GRO on a through bill of lading to a destination other than a Subgroup A country or Macao when such commodities remain at all times in the custody of the originating or on-forwarding carrier.[3] For all other transshipments of tobacco and tobacco products through Hong Kong to a specific ultimate consignee in a specific ultimate destination (such as shipments unloaded at Hong Kong in the custody of an agent other than the carrier) validated export licenses are required. Applications for such licenses will be considered in accordance with criteria otherwise applicable to the particular exportation if it were being exported to such specific consignee and destination directly from the United States. The name and address of the ultimate consignee and the Hong Kong intermediate consignee must be stated on the application for export license, Form IT–419.

COMMODITY GROUP 3

§ 373.24 *Applicability of multiple commodity group provisions to Commodity Group 3 commodities*—(a) *Export licensing general policy.* The following commodities within Commodity Group 3 are subject to the provisions of § 373.1 of this subchapter: Manila or abaca (including tow) Schedule B No. 320515; sisal, Schedule B No. 320519.

§ 373.25 *Manila or sisal fibers*—(a) *Application requirements.* All applications to export any manila or sisal raw fibers, Schedule B Nos., 320515 and 320519, must include a statement of the grades of fiber sought to be exported.

(b) *Shipper's export declarations.* All shipper's export declarations covering exportations of manila or sisal raw fibers must include a statement of the grades of fiber to be exported. This description must correspond with the description on the license.

COMMODITY GROUP 5

§ 373.31 *Applicability of multiple commodity group provisions to Commodity Group 5 commodities*—(a) *Export licensing general policy.* The following commodities within Commodity Group 5 are subject to the provisions of § 373.1.

Schedule B No.	Commodity description
[illegible]	Coke, except petroleum coke.
.[illegible]	Diamond grinding wheels, sticks, hones, and laps.
[illegible]	Diamond powder.
[illegible]	Diamonds suitable only for industrial use n. e. c.
[illegible]	Diamonds, rough or uncut, suitable for cutting into gem stones.
[illegible]	Diamond bearings.
	All RO commodities with the processing codes PETR, MINL, and SALT.

(b) *Import certificate/delivery verification requirements.* All commodities within Commodity Group 5 which are identified on the Positive List of Commodities by the letter "A" in the column headed "Commodity Lists" are subject to the provisions of § 373.2.

(c) *Evidence of availability requirements.* All commodities within the Commodity Group 5 which are identified on the Positive List of Commodities by the letter "D" in the column headed "Commodity Lists" are subject to the provisions of § 373.3.

§ 373.32 *Petroleum products*—(a) *Application requirements.* (1) Applications to export lubricating oils. Schedule B Nos. 503300, 503400, 503510, 503520, 503800, 503910, 503920, 503940, 503990, 504005, 504030, 504050, 504090, and 504095, must, in the commodity description column of Form IT–419, set forth a complete description of the lubricating oils, including the Saybolt viscosity at 130° F. or 210° F., pour point; flash point; and any other descriptive information which will enable the Office of International Trade to make an exact identification of the commodity for which an export license is requested. The quality (high, medium, or low) of the lubricating oil must be stated.

(2) Applications to export lubricating greases, Schedule B No. 504100, must, in the commodity description column of Form IT–419, set forth the quality (high, medium, or low) of the greases.

(3) Applications to export lubricating oils and greases described above must set forth detailed information regarding the proposed end use. The applicant should identify the end use by the particular industry or government activity (e. g., railroads, marine, motor transportation, and other public utility, agricultural machinery, mining, etc.) and, where possible, by specific function (e. g., aviation motors, motor cars, trucks and tractors, Diesel engines, transformers, compressors, open bearings, etc.).

(4) Applications to export petroleum products, Schedule B Nos. 501400 through 505900, to Burma, Ceylon, Taiwan, Indochina, Hong Kong, India, Macao, Federation of Malaya, Republic of Indonesia,

[3] See Note following § 384.5 of this subchapter.

Pakistan, Republic of the Philippines, Singapore, or Thailand, shall be accompanied by a statement attached to the application, setting forth the following information:

(i) The quantity of stock the ultimate consignee has on hand (in units of quantity as shown on the Positive List) as of the time the order was placed for each commodity covered by the application;

(ii) The date such order was placed;

(iii) Quantity of such commodities the ultimate consignee expects to receive from all sources other than the license applicant within 90 days after such order was placed; and

(iv) The monthly rate of consumption, including resale, by the ultimate consignee of the commodities covered by the application.

(b) *Processing of applications.* Applications which do not contain sufficient detailed information for an exact identification of the commodities involved and complete information regarding the end use will not be considered but will be returned to the applicant without action.

(c) *Time for submission of applications.* Applications for licenses to export lubricating oils and greases, Schedule B Nos. 503300 through 504100, to the destinations set forth in paragraph (a) (4) of this section must be submitted in accordance with the time schedules set forth in § 373.71.

§ 373.33 *Diamonds*—(a) *Definitions.* The commodities covered by this section are more particularly described and defined as follows:

(1) *Loose diamonds.* "Loose diamonds (except cut gem diamonds)" are any diamonds not set in any other material.

(i) "Industrial diamonds" (Schedule B Nos. 599005 and 540910) are unmounted industrial-purpose diamonds in any form, including ballas, carbonados, crushing bort, and diamond fragments, as well as diamond powder, dust and compounds.

(ii) "Cuttable diamonds" (Schedule B No. 599010) are diamonds suitable for cutting into gems and not reserved for industrial use.

(2) *Tools incorporating diamonds.* "Tools incorporating diamonds" are any tools or industrial devices, including metal slugs, which contain diamonds. "Tools incorporating diamonds" specifically include any machine containing as an integral part thereof a tool or device incorporating diamonds. A validated license is required for the export of such machines to any foreign destination except Canada.

(3) *Machines.* Machines containing as an integral part thereof a tool or device incorporating diamonds.

(b) *Basis of licensing.* License applications will be approved in accordance with the general licensing policy set forth in § 373.1.

(c) *Application requirements* — (1) *Schedule B classifications.* Separate license applications (Form IT–419) must be submitted for each Schedule B classification of loose diamonds and tools and devices incorporating diamonds and must contain a complete description of each named commodity or commodities, including any customary trade subclassifications.

(2) *Loose diamonds.* Loose diamonds, industrial and cuttable, must be listed on the application by one of the following methods:

(i) Separately, giving trade description and the respective carat weight and value of each diamond listed.

(ii) In groups by packets, giving the number of diamonds, the total carat weight, total value and average value per carat for each group.

(iii) By quantity (as in the case of small sizes, sand, powder, etc.) give total carat weight, total value, and average value per carat.

(3) *Tools incorporating industrial diamonds.* (i) Tools, tool parts, or devices (including metal slugs) must be listed separately on license applications, or by groups of identical tools, giving the name and type of tool and approximate carat weight of diamonds and/or diamond powder or dust contained therein.

(ii) License applications to export rock drill bits, core drill bits, and reamers containing diamonds, Schedule B No. 730875, which have been shipped to the United States for reprocessing or resetting must include the following information:

The approximate carat weight of the diamonds inserted in the reprocessing of each type or size of drill bit listed, exclusive of the diamonds shipped to the United States with the tool.

(iii) Applications for licenses to export diamond grinding wheels, sticks, hones and laps, Schedule B No. 540905, must state the quantity and size of each commodity, the carat weight of the diamond content of each unit, the size of the grit or grain, the type of bond, and the concentration.

(iv) Diamond dies must be listed on the license applications as unmounted or encased, and the size of hole, carat weight, and the unit value per die must be given.

(4) *Machines.* When a tool or device incorporating diamonds is to be shipped as an integral part of a machine, the machine may be listed together with tools and devices incorporating diamonds in a single license application. However, when the tools or devices incorporating diamonds are not an integral part of the machine but shipped as spares or extras, separate license applications must be submitted.

NOTE: The term "machine containing as an integral part thereof a tool or device incorporating diamonds" does not include the following commodities, since the tools or devices incorporating diamonds that are used with the following commodities are readily detachable and not integral parts. Therefore, diamond drill bits or any other tool or device incorporating diamonds may not be listed on the same license application with the following commodities:

Schedule B No.	Commodity description
730810	Specialized mining machines and equipment, n. e. c., and specially fabricated parts and accessories, n. e. c.
730840	Core drills, mounted or unmounted.
730900–732000	Well drilling machines, and parts.

A validated license must be obtained prior to exportation of any tool or device incorporating diamonds, whether such tool or device accompanies the shipment of other commodities or not.

(5) *End use.* The application must also include a detailed statement regarding the end use of the commodity.

(d) *Export clearance of loose diamonds.* (1) Every shipment of loose diamonds in any form must be inspected by the U. S. Appraiser of Merchandise at New York regardless of the means of exportation or the port of exit.

(2) The Appraiser will compare the contents of the shipment with the description on the shipper's export declaration authenticated by the collector of customs. If the contents and description on the authenticated shipper's export declaration agree, the Appraiser shall place his seal on the package or parcel.

(3) If the contents of the shipment do not agree with the description set forth on the authenticated export declaration, the Appraiser will submit the authenticated shipper's export declaration, together with a statement of his findings, to the Department of Commerce via the collector of customs.

(4) Post offices will not accept packages or parcels containing such commodities for mailing to a foreign destination unless they have been inspected by the U. S. Appraiser of Merchandise at New York, and the unbroken seal of that official appears on each package or parcel.

(e) *Return of loose industrial diamonds and diamond dust, or powder without license.* Notwithstanding the foregoing provisions of this section (which relate only to diamond exports which require a license) the provisions of § 371.9 (c) of this subchapter (which relate to exceptions from the general license GIT for intransit shipments), and the provisions of § 370.10 (which permit certain exports from foreign trade zones without license), any person in the United States to whom loose industrial diamonds, Schedule B No. 599005, or diamond dust or powder, Schedule B No. 540910, are consigned by a foreign supplier, with the privilege of selection and purchase or return, may return to such foreign supplier such of those diamonds or such dust or powder as are not selected for purchase, without securing an export license therefor, provided the following procedure and conditions are observed:

(1) *Deposit in New York Foreign Trade Zone.* The entire consignment to such person from his foreign supplier, upon arrival in the United States and prior to opening or inspection, must be taken directly from Customs custody into the New York Foreign Trade Zone and must be continuously kept there while inspection and selection are made and, with respect to those diamonds or such dust or powder not selected for purchase and to be returned to the foreign supplier, until released for immediate exportation to the foreign supplier.

(2) *Examination by Federal Supply Service.* The Federal Supply Service, General Services Administration, must be given an opportunity to examine and

purchase the diamonds or dust or powder proposed to be returned and, after having purchased any which it desires to purchase, must furnish to the New York Foreign Trade Zone Operators, Inc., its certificate, in duplicate, to the effect that it has been afforded such opportunity and that, with respect to those diamonds or such dust or powder remaining for return to the foreign supplier (which must be sufficiently identified by lot number, quantity, weight, description, etc.) it has elected not to purchase them.

(3) *Certificates required for release from Zone.* The New York Foreign Trade Zone Operators, Inc., shall not release the diamonds or dust or powder from the Zone unless and until the above-mentioned certificate has been furnished, and, at the time of such release, there shall be attached to the original thereof a duly executed Certificate of Constructive Transfer, Zone Form C, Revised (i. e., the official document by which commodities are released from the Zone) Both certificates will be delivered to the proposed exporter.

(4) *Export clearance.* No collector of customs shall authenticate any declaration for the export of loose industrial diamonds or diamond dust or powder pursuant to this procedure unless the certificate of the Federal Supply Service and the attached Certificate of Constructive Transfer, Zone Form C, Revised, provided for above, shall accompany the declaration filed with the collector.

NOTE: The use of the procedure set forth in paragraph (e) of § 373.33 will be expedited if diamond dealers desiring to use the facilities of the New York Foreign Trade Zone will make such arrangements as soon as they know when a consignment of diamonds or diamond dust or powder is due to arrive. Persons using the procedure are also responsible for notifying the Federal Supply Service when a proposed shipment is ready for inspection.

§ 373.34 *Asbestos.* (a) Asbestos fibers of spinning grades are in critical short supply in the United States, and a restrictive quota has been set up for "Crude asbestos and spinning fibers of grades being procured for the national stockpile."

(b) Under this restrictive quota, the Office of International Trade will not consider an application for export license for asbestos fibers of spinning grades, Schedule B No. 545110, unless and until the applicant has submitted to the General Services Administration a representative five-pound sample of the type covered by the application, and has been advised that the lot represented by the sample is not desired for stockpile purposes. All applications for licenses to export such asbestos shall be accompanied by a true copy of the GSA letter of rejection (see § 372.9 of this subchapter).

(c) The five-pound sample should be sent, carriage prepaid, to General Services Administration, Emergency Procurement Service, Attention: Director, Purchase Division, 7th and D Streets, S. W., Washington 25, D. C., together with a letter specifying that the sample is submitted for purposes of securing an export license.

(d) Crude asbestos and spinning fibers, Schedule B No. 545110, will be licensed for export in accordance with the provisions of §§ 373.3, 373.6, and these special provisions.

§ 373.35 *Asbestos and carbon commodities.* The following commodities are subject to the provisions of § 373.49 (d) which relate to special requirements for certain commodities exported as automotive replacement parts to certain destinations:

Schedule B No.	Commodity description
545600	Asbestos brake lining, molded and semimolded.
545700	Asbestos brake lining, woven.
545800	Asbestos clutch facing, molded, semimolded, and woven, including clutch lining.
647400	Carbon brushes for starting, lighting, and ignition equipment (automotive only).

§ 373.36 *Cryolite.* Cryolite, natural and artificial, Schedule B No. 596012, will be licensed for export in accordance with the provisions of § 373.6 and the following special provisions:

(a) *Requests for purchase authorization.* NPA Order M-99, as amended, provides that no person shall purchase cryolite (other than Raymond Mill Dust for which no NPA authorization is necessary) without special authorization from NPA and that the application for export license to the Office of International Trade shall constitute a request for such NPA authorization. The licensing action of the Office of International Trade will be coordinated with the granting of the purchase or other specific authorization by the National Production Authority so that at the time an export license is issued it will be accompanied by the necessary National Production Authority authorization.

(b) *Grade of cryolite.* All applications for licenses to export cryolite, natural and artificial, Schedule B No. 596012, shall include, in the commodity description column of Form IT-419 the grade of cryolite covered by the application.

(c) *Outstanding licenses.* If an exporter needs a purchase or other specific authorization for cryolite covered by an outstanding validated export license, he may request such authorization by letter to the Office of International Trade, Washington 25, D. C. The letter should either include the export license or the following information: OIT case number, license number, applicant's reference number, name and address of licensee, and a statement that the authorization is requested.

COMMODITY GROUP 6

§ 373.39 *Applicability of multiple commodity group provisions to commodity group 6 commodities*—(a) *Export licensing general policy.* The following commodities within Commodity Group 6 are subject to the provisions of § 373.1:

Schedule B No.	Commodity description
601010-601020	Iron and steel scrap (except tin plated and terne plated).
	Specification production plate:
634110	Tinplate, hot-dipped.
634120	Tinplate, electrolytic coated.
634170	Tinplate, decorated, embossed, lithographed, lacquered, or otherwise advanced.
617201	Tools, incorporating industrial diamonds, n. e. c.
	All RO commodities with the processing codes MINL and NONF.

(b) *Import certificate/delivery verification requirements.* All commodities within Commodity Group 6 which are identified on the Positive List of Commodities by the letter "A" in the column headed "Commodity Lists" are subject to the provisions of § 373.2.

(c) *Evidence of availability requirements.* All commodities within Commodity Group 6 which are identified on the Positive List of Commodities by the letter "D" in the column headed "Commodity Lists" are subject to the provisions of § 373.3.

(d) *Past participation in exports.* The following commodities within Commodity Group 6 are subject to the provisions of § 373.4, as herein modified:

(1) *All controlled materials and certain additional commodities with processing code NONF*

Copper bars (except wire bars), Schedule B No. 642400;
Copper scrap, Schedule B No. 641300;
Brass and bronze scrap, new and old, Schedule B No. 644000; copper-base alloy ingots, Schedule B No. 644100;
All controlled materials (identified on the Positive List by the letter "C" in the column headed "Commodity Lists").

A separate report on Form IT-821 shall be filed for each Schedule B number and shall cover the quantity in Schedule B units of exports from the United States made during each of the calendar years 1949 and 1950 where the total of such exports for each commodity was $5,000 or more for any one year.

(2) *Cobalt dental alloys, Schedule B No. 664526 (formerly 664529 and 915590)* A separate report on Form IT-821 shall be filed for each Schedule B number and shall cover the quantity, in pounds, of exports from the United States made during each of the calendar years 1949 and 1950, where the combined total of such exports for both commodities was $500 or more for any one year.

§ 373.40 *Iron and steel*—(a) *Iron and steel products with processing code STEE*—(1) *Applicability.* The provisions of this paragraph are applicable to all iron and steel products on the Positive List with the processing code STEE, whether or not subject to the export licensing general policy set forth in § 373.1. (See also § 373.50 for Group 7 commodities with processing code STEE.)

(2) *Export price.* The export price may be shown on the application form in terms of either the total price, including price per unit, or the supplier's price plus a specified mark-up. This latter method may be used only where

the supplier has filed, or files, with the Department of Commerce his price schedule maintained for the sale of iron and steel items for which export licenses are or may be requested and a statement that the supplier will inform the Department of Commerce promptly (within 10 days) of any changes which may occur in his price schedule. In case the unit price varies according to size or specifications, the applicant must show unit price for each separate size or specification.

(b) *Iron and steel commodities subject to export licensing general policy.* All iron and steel products with the processing code STEE which are subject to the export licensing general policy set forth in § 373.1 will be licensed for export in accordance with the following special provisions:

(1) *Evidence of availability of material.* Applicants for licenses to export the iron and steel products described above must submit evidence of availability of the material as provided in § 373.3.

(2) *Time for submission and action on application.* (i) Export license applications must be submitted in accordance with any applicable time schedule. License applications will be returned without action to the applicant if time schedules for submission are provided but not observed by the applicant; such applications may be resubmitted during the appropriate periods.

(ii) It is the intention of the Office of International Trade to complete licensing iron and steel commodities within 15 days after the closing date for the submission of applications for such commodities, where such closing dates are specified.

(3) *Applications in excess of quotas; refiling.* Applications for which quota is exhausted will be returned without action (RWA) immediately and may not be refiled prior to the date shown on the RWA form. If the letter of acceptance or commitment originally filed is more than 90 days old at the time of refiling of such an application, the letter must be reconfirmed or a new letter must be submitted at the time of refiling.

(c) *Silicon steel sheets.* In addition to the general provisions contained in paragraph (a) of this section, all license applications to export silicon steel sheets (commonly called electrical sheets) Schedule B No. 603595, must, in the commodity description column of Form IT-419, set forth a complete description of the sheets to be exported. The specifications appearing on license applications must agree with those on the supporting documents. The description on the license applications must include: Specific grades, such as armature, electric, dynamo, or transformer; core loss for each grade and gauge, expressed in watts per pound at a flux density of 10,000 gausses and at 60 cycles per second. If the core loss appears on the customer's order in metric units or at a flux density of 15,000 gausses, or at 50 cycles, it should be converted and shown in terms of watts per pound at a flux density of 10,000 gausses and at 60 cycles per second.

(d) *Alloy, tool, and stainless steel.* All applications for licenses to export alloy, tool, or stainless steel mill products (bars, rods, sheets, plates, etc.) having the processing code STEE must contain, in the commodity description column of Form IT-419, the following information (in addition to the general description and the Schedule B number, e. g., Alloy Tool Steel Bars, 602650)

(1) Where such steel product is a "standard" grade, the AISI, SAE, or NE number, or any other recognized designation, as may be appropriate; or

(2) Where such steel product cannot be described by a recognized designation, a detailed statement of the percentages of alloying elements present.

(e) *CMP carbon steel, including steel plates and structurals, but not including tinplate.* Applications submitted for licenses to export carbon steel, including steel plates and structurals, but not including tinplate, will be considered for approval by the Office of International Trade only where the end use is:

(1) Essential to direct military production of the United States or of a friendly foreign nation; or

(2) Essential to the production abroad of strategic materials for shipment to the United States or to a friendly nation; or

(3) Essential to direct defense supporting industry, including the facilities required for the production described in either of the two first-named criteria, or

(4) Urgent and essential for the maintenance of basic civilian activities and public services of friendly nations.

(f) *Distressed iron and steel scrap—*(1) *Licensing within quantitative quotas.* A small quantity of iron and steel scrap, Schedule B Nos. 601010, 601040, 601050, 601070, 601090, and 601150, is allocated to meet the minimum operating requirements of certain consumers in Mexico traditionally dependent for such scrap upon sources in the Southwestern United States.

(2) *Licensing in excess of quantitative quotas.* Export licenses may be granted in rare instances in connection with cases of extreme hardship arising out of the inability of holders of scrap to dispose of it in the domestic market because of the unwillingness of domestic buyers to purchase the scrap at reasonable prices. Such applications for export licenses must be accompanied by a written certification from the NPA that the scrap covered by the application qualifies as distressed material.

(i) Requests for the NPA certification should be addressed to the Director, Steel Division, NPA, Washington 25, D. C. The NPA has indicated that complete justification must be furnished to indicate beyond question the distressed character of the scrap. Such justification should include, as a minimum, evidence as to the length of time the scrap has been held, the names and addresses of potential users in the seller's market to whom the scrap has been offered, prices at which it has been offered and the reasons for rejection of offers to sell.

(ii) Export licenses filed under the provisions of this subparagraph will not be granted for exports to destinations other than the United Kingdom until such time as the Office of International Trade has contacted United Kingdom authorities, through the Mutual Security Agency, and has been advised of the declination of that country to purchase the scrap described in the application at a reasonable price.

§ 373.41 *Nonferrous commodities, including ores, concentrates, or unrefined products—*(a) *Containing lead, molybdenum, and vanadium.* All applications for licenses to export ores, concentrates, or unrefined products included on the Positive List of Commodities, containing lead, molybdenum, and vanadium, and classified under Schedule B Nos. 650406, 664550, 664586, 664587, and 664588, respectively must include a statement of the weight in pounds of each such element, except for vanadium, which shall be on the basis of the V_2O_5 content.

(b) *Containing radium.* All applications for licenses to export any nonferrous commodities, including ores, concentrates, smelter and refinery residues; or unrefined products, containing radium must include a statement of the weight in grams of such radium regardless of the amount. (See § 373.55.)

(c) *Nonferrous metal alloys.* The following provisions are applicable to all nonferrous metal alloys (including bimetals, thermometals, etc.) on the Positive List with the processing codes NONF and MINL: Applications for licenses to export such commodities must contain, in the commodity description column of Form IT-419, a complete commodity description, including the percentage of each alloying element present or the recognized standard commercial brand or trade name of the commodity (such as are published in "Engineering Alloys" by the American Society for Metals)

(d) *Copper and copper-base alloy scrap.* Each application covering copper and copper-base alloy scrap, new and old, Schedule B Nos. 641300 and 644000, shall include in the commodity description the code specification of the National Association of Waste Material Dealers (NAWMD) applicable to each commodity.

(e) *Copper refinery shapes.* All applications for licenses to export copper refinery shapes, Schedule B No. 641200, shall include, in the commodity description column of Form IT-419, a statement indicating the origin, U. S. or foreign, of the ores and concentrates from which the copper shapes covered by the application were produced.

(f) *Zinc scrap.* All applications for licenses to export zinc scrap (including ashes, dross, skimmings, and residues) Schedule B No. 657050, shall include (in addition to the total net weight of the commodity) the weight in pounds of the zinc content of the commodity. Also, the proportion of other significant elements contained in the material should be stated. This information shall be entered in the commodity description column of Form IT-419.

§ 373.42 *Production tinplate.* Production tinplate, Schedule B Nos. 604110, 604150, and 604170, will be licensed for export in accordance with the provisions of § 373.1 and the licens-

ing policies and special provisions set forth in this section.

(a) *Definitions.* For purposes of this section the following definitions and explanations are given as to various grades of production tinplate: Specification production plate includes hot-dipped and electrolytic primes and seconds, and tinplate decorated, embossed, lithographed, lacquered, or otherwise advanced. Specification production plate is that plate made according to specifications of the purchaser, and is to be distinguished from the other grades of tinplate that are referred to generically as "secondary products."

(b) *Licensing criteria.* Specification production plate will be licensed for export in accordance with the following special provisions of this paragraph:

(1) *Consignee and end uses.* In general, applications for licenses will be considered for approval by the Office of International Trade only where the foreign consignee is a regular user of tinplate and where the end use is for the preservation of perishable essential foods or the packaging of petroleum products.

(2) *Time for submission of applications.* Applications for licenses shall be submitted to the Office of International Trade in accordance with the time schedules set forth in § 373.71.

(3) *CMP allotments.* The Controlled Materials Plan (CMP) governing the distribution of certain metals, as established by the National Production Authority, effective July 1, 1951, is applicable to the tinplate commodities covered by this section. If an export license is issued, the Office of International Trade will assign a CMP allotment in accordance with § 398.5 of this subchapter.

NOTE

1. *NPA orders and their applicability to exports.* National Production Authority Orders M-8, M-24, M-25, and M-26 regulate the use of tin and tinplate in the domestic market.[4] These orders are applied by the Office of International Trade in licensing exports, as described in § 373.6.

2. *Consignee information.* Information concerning the consignees (regular users and recognized distributors) in foreign countries is obtained by the Office of International Trade for licensing specification production plate covered by this section from two sources: (a) United States Embassies in the respective countries, and (b) the foreign embassies and/or trade missions in the United States. These two sources will also inform the Office of International Trade concerning any supplier preference indicated by the consignee.

3. *Quotas established for tinplate.* The following separate export quotas are established quarterly against which each grade of production tinplate will be licensed:

(a) For food packing
(b) For petroleum packaging

§ 373.43 *Copper under the controlled materials plan*—(a) *Licensing policy.* Applications for licenses to export copper under the Controlled Materials Plan will be considered for approval only where the end use is essential to:

(1) The direct military production of the United States or a friendly foreign nation.

(2) The production abroad of strategic materials for shipment to the United States or to a friendly foreign nation.

(3) The maintenance and development of direct defense-supporting industry, including facilities required to accomplish either of the two objectives mentioned in subparagraph (1) or (2) of this paragraph.

(4) The maintenance and development of the basic economy, civilian activities, and public services of the United States or of a friendly foreign nation, including essential facilities for transportation, communication, electric power, public welfare, and industrial production (such as steel mills, food processing manufacturers, textile mills, and sugar mills).

(b) *Statement of essentiality.* Applications for licenses to export copper under the Controlled Materials Plan must state specifically the detailed end use for which the commodity will be utilized by the ultimate consignee. Any supplementary evidence available to the exporter concerning the essentiality of the end use for which the copper is intended should accompany the application.

(c) *Applications returned without action or disapproved.* Applications for licenses to export copper for any end use other than those set forth in paragraph (a) of this section will be returned without action and should not be resubmitted until a revising licensing policy is officially announced by the Office of International Trade. Applications for licenses which are eligible for approval under the current licensing policy may, nevertheless, be returned without action or disapproved if export quotas are inadequate.

§ 373.44 *Totally allocated commodities*—(a) *Commodities included.* The following commodities, as described in the relevant National Production Authority orders, are subject to this section. The NPAF forms required to be submitted with respect to each commodity or group of commodities covered by an NPA order are specified in each order and for the convenience of exporters are also set forth below:

Commodity[1]	Relevant NPA order	Required NPAF form
Copper refinery shapes (not CMP shapes) and brass and bronze ingots.	M-16	83
Copper scrap and copper base alloy scrap.	M-16	83
Molybdenum, except pure	M-80	114

[1] Commodities covered are described in detail in the applicable NPA order.

NOTE: The term "totally allocated commodities" includes those commodities for which the user, purchaser, or seller must hold an allocation authorization or release from the National Production Authority prior to his use, purchase, or sale thereof.

Since the commodities covered by this section are under total allocation by the National Production Authority, the fact that an exporter holds a validated export license does not in itself permit him to deliver such commodities or accept delivery from a supplier. Under NPA regulations in effect as of October 4, 1951, he must file a separate application for an individual allocation authorization (using the appropriate NPAF form).

However, under this section, the required National Production Authority form (NPAF form) will be filed together with the export license application with the Office of International Trade, and the approval of the allocation request will be integrated with and will depend upon action on the export license application.

Consequently, when an allocation request is approved, the approved NPAF form will be returned to the applicant either (1) by the OIT with the validated license, or (2) by the NPA immediately after the OIT has approved the license application, in which case the exporter will receive his validated license from the OIT at about the same time. The procedure set forth in this section will save time for the exporter and will assure that he may accept and make delivery for export of material against his export license covering such commodities.

(b) *How to prepare NPAF forms.*[5] The NPAF forms should be filled out in accordance with the requirements of the relevant NPA order, since official action on the allocation requests will be taken by NPA after the requests are submitted to the Office of International Trade. However, where the applicant is instructed on the form or in the order to file for his requirements covering a specified period of time (e. g., a month or a quarter), exporters shall, in each case, file separate NPAF forms to cover only the quantity specified in each individual export license application (or each validated license to export the commodities for which an allocation is requested). In addition, exporters need not necessarily answer items on the NPAF forms which are inapplicable, or for which information is unavailable, such as "periodic inventory reports," or "analysis of rated orders."

NOTE

1. *NPA orders and instructions.* Exporters should become familiar with the NPA "M" orders and the NPAF forms mentioned in paragraph (a) of this section for instructions in filling out these forms and for understanding their responsibilities under the orders.

2. *NPA inventory form.* Attention of exporters is directed to the fact that the filing of the inventory form required by various NPA orders covering the commodities listed in paragraph (a) of this section is not applicable in the case of exporters. Allocation requests submitted together with or in connection with export license applications or licenses need not be accompanied by any inventory forms.

(c) *Submission of NPAF forms with license applications*—(1) *New applications.* With the exceptions set forth in subparagraph (4) of this paragraph, all license applications covering the commodities listed in paragraph (a) of this section must be accompanied by the appropriate NPAF form, requesting an

[4] NPA orders may be obtained from field offices of the Department of Commerce upon request.

[5] Copies of NPAF forms may be secured from the Department of Commerce and NPA field offices and from the Distribution Office, National Production Authority, Department of Commerce, New GAO Building, Fourth and G Streets NW., Washington 25, D. C.

allocation. License applications covering such commodities will be returned to the applicant without action unless the appropriate NPAF form is attached and properly prepared. If the license application is approved, the approved allocation request (NPAF) form, bearing an assigned certification number which will authorize the licensee to accept or make delivery of the material in the quantity specified on the license will be returned to the applicant either by the Office of International Trade with the validated license, or under separate cover from the NPA. If the NPAF form has already been filed with the National Production Authority, the applicant shall submit with the export license application a copy of such NPAF form to the Office of International Trade, marked "Copy," regardless of whether NPA has acted on the allocation request. If NPA has acted on the allocation request, the applicant shall indicate the action taken by NPA on the face of the NPAF form copy sent to the Office of International Trade.

(2) *Pending applications.* Except as provided in subparagraph (4) of this paragraph, for all license applications covering the commodities added to the list in paragraph (a) of this section that are pending before the Office of International Trade on the effective date when the new commodity is added, and for which the NPAF form has not been filed with the National Production Authority, the applicant shall immediately file the appropriate NPAF form with the Office of International Trade; if the applicant has already filed such form with the NPA, he shall send a copy of such NPAF form to the Office of International Trade, marked "Copy," regardless whether NPA has acted on the allocation request. In all cases, the applicant shall note on the copy of the NPAF form the OIT case number, if known; the applicant's reference number; the Schedule B number(s) and country of destination. If NPA has acted on the allocation request, the action taken by NPA shall be noted on the face of the NPAF form copy sent to the Office of International Trade.

(3) *Outstanding validated licenses.* For all outstanding validated licenses covering commodities listed in paragraph (a) of this section, and for which the NPAF form has not been filed with National Production Authority, the licensee shall immediately file the appropriate NPAF form with the Office of International Trade; if the licensee has already filed such form with NPA, but no allocation has been granted, he shall send a copy of such NPAF form to the Office of International Trade, marked "Copy." In either case, the applicant shall note on the copy of the NPAF form the OIT case number, the export license number, the date of issuance, the Schedule B number(s) and country of destination. If partial shipment has been made, he shall indicate the quantity shipped, the unshipped balance, and the collector of customs with whom the license has been deposited.

NOTE: Requests for approval of the NPAF form filed pursuant to this section will be considered within the quotas established for the current quarter or allocation period.

(4) *Exception.* The procedure set forth in this section is not applicable in the case of materials purchased for export under the "small-user" provisions of the relevant "M" orders. In such cases, a signed statement from the applicant (in lieu of the NPAF form) must accompany the export license application. This statement should conform substantially with the following certification:

> The undersigned certifies, subject to penalties provided by law or regulation, that the material covered by the attached export license application was procured in conformity with "small-user" provisions contained in paragraph ____ of NPA Order No. M _____ and that all provisions of this order have been or will be complied with.
>
> Signature _____
> Title _____

(5) *Time for filing NPAF forms and "small-user" certification with OIT* Allocation requests for commodities listed in paragraph (a) of this section must be submitted to the Office of International Trade as follows:

(i) Allocation requests with new license applications shall be submitted at any time the license application may be submitted (see § 372.3 (a) and § 373.71)

(ii) Allocation requests for commodities covered by outstanding licenses and license applications pending in the Office of International Trade when the commodities are added to the list in paragraph (a) of this section shall be submitted within 20 days after the effective date when the new commodities are added to the list.

Allocation requests received after these dates cannot be considered for approval.

§ 373.45. *Tools incorporating industrial diamonds.* Applications for licenses to export tools, tool parts, or devices containing diamonds must be submitted in accordance with the provisions of § 373.33.

COMMODITY GROUP 7

§ 373.48 *Applicability of multiple commodity group provisions to commodity group 7 commodities*—(a) *Export licensing general policy.* The following commodities within Commodity Group 7 are subject to the provisions of § 373.1.

Schedule B No.	Commodity description
730875	Rock drill bits, core drill bits, and reamers, containing diamonds.
745503	Diamond dies for power-driven metal-working machinery.
766990	Diamond penetrators and parts.
	All RO commodities with the processing codes MINL and NONF.

(b) *Import certificate/delivery verification requirements.* All commodities within Commodity Group 7 which are identified on the Positive List of Commodities by the letter "A" in the column headed "Commodity Lists" are subject to the provisions of § 373.2 of this subchapter.

(c) *Evidence of availability requirements.* All commodities within Commodity Group 7 which are identified on the Positive List of Commodities by the letter "D" in the column headed "Commodity Lists" are subject to the provisions of § 373.3 of this subchapter.

(d) *Past participation in exports.* The provisions of § 373.4 are applicable to all controlled materials within Commodity Group 7 (identified on the Positive List of Commodities by the letter "C" in the column headed "Commodity Lists") subject to the following modifications: A separate report on Form IT–821 shall be filed for each Schedule B number and shall cover the quantity in Schedule B units of exports from the United States made during each of the calendar years 1949 and 1950 where the total of such exports for each commodity was $5,000 or more for any one year.

§ 373.49 *Machinery and parts*—(a) *Information required with license applications to export machinery and parts.* All license applications to export machinery, including replacement and repair parts, with the processing codes GIEQ, TRAN, CONS, TOOL, and ELME must include the following information:

(1) A copy or abstract of that part of the contract of sale or sales specification describing the commodity for which the export license is requested. Where there is no contract of sale, or where the contract of sale does not completely describe the commodity a complete description must be furnished showing, for example, type, trade name, trade symbol, model number, serial number, capacity, type and horsepower of drive, operating pressure and temperature, composition of special metals.

(2) Where reference to a manufacturer's catalog or bulletin is essential to full indentification, a copy must be furnished if not previously filed.

(3) With respect to replacement parts, applications must state the range of or specific sizes and types of the units of equipment for which the parts are required, the dollar value and quantity. A detailed list of the parts is required only with respect to automotive replacement parts proposed for export to certain destinations set forth in paragraph (d) of this section.

(4) The MSA authorization number, where known, if machinery or parts have been purchased under Mutual Security Agency authorization.

(b) *Power-generating and other heavy machinery involving long-term production periods*—(1) *Submission of license applications where production time exceeds 1 year* (i) When submitting license applications to export power-generating and other heavy machinery where production cannot be completed within the original 1-year validity period for the export license, the applicant should advise the Office of International Trade of this fact by attaching to his application a letter requesting that his application be considered in the light of the fact that an extension of the original validity period of the license may be required. This letter of request should include a statement of the present production status and the proposed delivery dates of the major components which cannot be shipped within 12 months.

(ii) When such a letter does accompany the application, a statement to this effect should be placed in the commodity description column of Form IT–419. The letter will be retained in the files of the Office of International Trade for reference in the event a request for extension is subsequently submitted by the licensee.

(iii) When such a letter of request establishes the merit of a longer validity period for the license, the Office of International Trade will stamp on the face of the validated license the following statement:

While the Office of International Trade does not as a matter of policy issue export licenses for a validity period greater than 1 year, the Office of International Trade has at present no information which would preclude the extension of this license for an additional period.

(2) *Submission of requests for extension of validity period.* (i) In the event that the exporter is not able to effect shipment of heavy power-generating and other heavy machinery within the validity period of a license issued pursuant to provisions set forth in subparagraph (1) of this paragraph, a request for an extension should be made in accordance with procedure set forth in § 380.4 of this subchapter.

(ii) In addition, the letter requesting an extension must set forth the current status of production and the proposed delivery dates of major components, as called for in the letter of request described in subparagraph (1) of this paragraph.

(3) *Granting of requests for extension.* Requests for extensions of licenses issued under the foregoing procedure authorizing the exportation of heavy power-generating and other heavy machinery will be accorded as favorable consideration by the Office of International Trade as the conditions existing at the time of the requested extension will permit; also such requests will, whenever possible, be given precedence over new license applications covering similar heavy machinery.

(c) *Pumps, compressors, blowers, exhausters, fans, and parts.* (1) In addition to the other information required by paragraph (a) of this section, applications for licenses to export pumping equipment and parts, Schedule B Nos. 770900 through 770995, must include the following information:

(i) Designed delivery pressure at pump discharge in pounds per square inch (for deep well turbine pumps under Schedule B No. 770910, reported pressure is to be the designed delivery pressure at pump discharge as calculated by the manufacturer under the assumed condition that the bowl assembly is directly connected to the drive head assembly without intervening column pipe)

(ii) Designed working temperature in degrees Fahrenheit for continuous operation;

(iii) Whether fabricated of or lined with any of the corrosion-resistant materials as defined in the "General Notes to Appendix A" (Part 399 of this subchapter)

(2) In addition to the other information required by paragraph (a) of this section, applications for licenses to export compressors, blowers, exhausters, or fans (classified within Schedule B Nos. 770400 through 770775) must include the following information:

(i) Designed working pressure in pounds per square inch, gauge reading;

(ii) Intake capacity in cubic feet per minute;

(iii) Delivery pressure in pounds per square inch, gauge reading, for ejector compressors, centrifugal and mixed flow types of compressors, rotary blowers, and exhausters;

(iv) Whether fabricated of or lined with any of the corrosion-resistant materials, as defined in the "General Notes to Appendix A" (Part 399 of this subchapter)

Applications for licenses to export parts for such compressors, blowers, exhausters, or fans must set forth the specific information described above for each compressor, blower, exhauster, or fan for which the parts are intended.

(d) *Automotive replacement parts—*(1) *Additional application requirements.* (i) An exporter who receives an order, or an inquiry relating to an order, for automotive replacement parts, listed in subparagraph (2) of this paragraph, and, in addition, for certain Commodity Group 5 commodities listed in § 373.35, to be exported to a destination listed in subparagraph (3) of this paragraph from a consignee with whom he has not previously done business and who has not been approved as an ultimate consignee on an export license issued to him, is required to observe the special provision described below when filing an application for a validated export license to make the proposed shipment.

(ii) Prior to filing a license application, the exporter shall request the ultimate consignee to communicate with the nearest United States embassy or consulate in his area and provide information for a World Trade Directory report, if he has not already done so within the last 12 months. When applying for an export license, such an exporter, in addition to supplying the information required by paragraph (a) of this section, shall state in the commodity description item of the license application, or on an attachment thereto, that he has requested the ultimate consignee to provide the information specified above.

(iii) The filing of World Trade Directory report information with a United States embassy or consulate is essential in order to facilitate final action on the application for a validated license. Licenses will not be issued in such cases until the related reports are received from the embassies or consulates, or unless such reports are on file in the Department of Commerce. Applications will be returned without action in any instance where the World Trade Directory report is not received by the Department of Commerce within 90 days from the date of filing the application.

(2) *Commodities.* The provisions of this paragraph are applicable to applications for licenses to export the following commodities to the destinations set forth in subparagraph (3) of this paragraph: (See also § 373.35.)

Schedule B No.	Commodity description
701200	Automotive storage batteries, 6- and 12-volt, lead-acid type.
702000	Spark plugs, automobile, bus, and truck type.
702220	Starting, lighting, and ignition equipment, n. e. c., and specially fabricated parts and accessories, n. e. c.: automobile, bus, and truck type.
703100	Alloy and carbon steel ball bearings, and specially fabricated parts except balls (automotive only).
703200	Alloy and carbon steel roller bearings, and specially fabricated parts except rollers (automotive only).
703310	Alloy and carbon steel balls for bearing (automotive only).
703315	Alloy and carbon steel rollers for bearings (automotive only).
	Parts for commercial automobiles, trucks, and buses:
	Engines for replacement (motor truck, bus, and passenger car):
701210	Diesel and semi-diesel.
701220	Gasoline.
701230	Bodies, truck and bus, for replacement.
701270	Bodies, automobile, for replacement.
701275	Knee-action springs (helical or coil), for replacement.
701280	Leaf springs, and spring leaves, for replacement.
702020	Parts, n. e. c., specially fabricated, for spares, replacement, or manufacture into larger components, except: air cleaners; brake extension handles; bumpers; door locks; horns; hub caps; hydraulic truck dumping hoists; oil filter clamps; oil filters; oil purifiers; oil rectifiers; parking lights; radiator caps; radiator ornaments; reflex signs, road traffic; stop lights; thermostats; third axle assemblies; windshield wipers; and specially fabricated parts for the excepted items.

(3) *Destinations.* The provisions of this paragraph are applicable to applications for licenses to export the commodities set forth in subparagraph (2) of this paragraph to any of the following destinations:

British Malaya (including the Colony of Singapore, the Federation of Malaya, the Colony of North Borneo (including Brunei and Labuan), the Colony of Sarawak, and other insular possessions)
Burma
Ceylon
Indochina (Vietnam, Laos, Cambodia)
Indonesia
Republic of the Philippines
Thailand (Siam)

(e) *Metalworking machines*—(1) *Commodities.* The provisions of this paragraph are applicable to certain metalworking machines (including machine tools), appearing on the Positive List of Commodities under Schedule B Nos. 740005 through 744319, 744410 through 744700, 745990, and 766993, as defined and listed in detail in NPA Order M–41, as amended.

(2) *Additional application requirements.* In addition to the provisions of paragraph (a) of this section and other applicable requirements, applications for licenses to export the metalworking machines (including machine tools) described in subparagraph (1) of this paragraph must be accompanied by one of the following:

(i) A statement that a DO rating has been assigned, as set forth in § 398.4 of this subchapter.

(ii) Form IT–835 (Request for Special Supply Assistance) executed in accordance with the provisions of § 398.4 (c) of this subchapter; or, where the exportation is to be made to a country for which the Mutual Security Agency is

claimant agency (see Supplement No. 3 to Part 398 of this subchapter) a statement that the request for supply assistance has been submitted through the Washington mission of the country of destination to the Mutual Security Agency, Washington 25, D. C.

(iii) Evidence of availability as required by § 373.3 of this subchapter, where the supplier is not a producer of the machines.

NOTE: Commodities covered in this paragraph are defined and listed in detail in NPA Order M-41, as amended. Copies of this order may be obtained from any field office of the Department of Commerce and from the Distribution Office, National Production Authority, Department of Commerce, New GAO building, Fourth and G Streets NW., Washington 25, D. C.

(f) *Tools incorporating diamonds.* Applications for licenses to export tools, tool parts, or devices containing diamonds must be submitted in accordance with the provisions of § 373.33 of this subchapter.

§ 373.50 *Commodity group 7 commodities with processing code STEE.* All commodities within Commodity Group 7 with the processing code STEE are subject to the provisions of § 373.40 of this subchapter relating to iron and steel products.

§ 373.51 *Insulated wire and cable.* All applications for licenses to export insulated wire and cable, Schedule B Nos. 709810–709885, must include (in addition to the total net weight of the commodity) a statement of the weight, in pounds, of the copper contained in the commodity.

NOTE: The required information should be entered on Form IT-419 in the following manner:

Quantity to be shipped	Commodity description	Schedule B No.
10,000 pounds...	Appliance wire, insulated (copper content 6,000 pounds).	709885

COMMODITY GROUP 8

§ 373.54 *Applicability of multiple commodity group provisions to commodity group 8 commodities*—(a) *Export licensing general policy.* The following commodities within Commodity Group 8 are subject to the provisions of § 373.1 of this subchapter: All RO commodities with the processing codes ACID, COTA, DRUG, ORGN, PETR, PLAT, RESN, and SALT.

(b) *Import certificate/delivery verification requirements.* All commodities within Commodity Group 8 which are identified on the Positive List of Commodities by the letter "A" in the column headed "Commodity Lists" are subject to the provisions of § 373.2 of this subchapter.

(c) *Evidence of availability requirements.* All commodities within Commodity Group 8 which are identified on the Positive List of Commodities by the letter "D" in the column headed "Commodity Lists" are subject to the provisions of § 373.3 of this subchapter.

§ 373.55 *Chemicals and medicinals*—(a) *General.* All applications for licenses to export chemicals, medicinals, and pharmaceuticals shall state such facts relating to grade, form, concentration, mixtures, or ingredients as may be necessary to identify the commodity accurately.

(b) *Bismuth salts and compounds.* All applications for licenses to export bismuth salts and compounds (bulk), Schedule B No. 813583, shall include (in addition to the total net weight of the commodity) the weight in pounds of bismuth contained in the commodity. This information shall be entered in the commodity description column of Form IT-419.

(c) *Cobalt-containing products.* All applications for licenses to export the following cobalt-containing products shall include (in addition to the total net weight of the commodity) the weight in pounds of the cobalt contained in the commodity. This information shall be entered in the commodity description column of Form IT-419.

Schedule B No.	Commodity description
829970	Cobalt reagents.
839750, 839900	Cobalt compounds
842900	Cobalt-containing pigments.
843600	Cobalt-containing paint and varnish driers.

(d) *Radioactive isotopes, radium salts and compounds, and radium emanation (radon)* A validated license is required for the export of all commodities containing any form of (1) radioactive isotopes or preparations thereof, (2) radium salts and compounds, or (3) radium emanation (radon) whether for industrial or medicinal purposes, to any foreign destination except Canada. All license applications must contain a description of the type of compound and radium content, if ascertainable. This information shall be entered in the commodity description column of Form IT-419. Such commodities are to be classified under Schedule B No. 829940; except that paints containing radium are to be classified under Schedule B No. 843800, and nonferrous commodities containing radium are to be classified under appropriate Schedule B number in accordance with the provisions of § 373.41 of this subchapter.

§ 373.56 *Human blood plasma.* Human blood plasma, Schedule B No. 812100, will be licensed for export in accordance with the following special provisions:

(a) *Licensing criteria.* The total quantity of commercial human blood plasma which will be licensed each quarter will not exceed the quarterly average of exports during 1949 and the first six months of 1950. Applications submitted for licenses to export human blood plasma will be considered for approval by the Office of International Trade only where the end use and quantity involved meet one of the following criteria:

(1) Certified requirements of facilities abroad, such as mining and oil operations, which are directly contributing to the defense effort.

(2) Reasonable quantities for armed forces of friendly nations which are actively in conflict with Communist forces and which are dependent on the United States for dried plasma to support this action.

(3) Reasonable quantities for friendly foreign governments and internationally recognized health organizations for distribution in public health programs.

(4) Reasonable quantities to friendly countries for the supply of hospitals, local clinics, or other local health organizations where there are assurances by the ministries of health as to the need, end use and distribution; or for the needs of Americans residing abroad or for American companies operating abroad where similar assurances have been provided as to the need, end use and distribution.

(5) Minimum quantities required by exporters for registry with foreign governments but only where consistent with subparagraphs (1) through (4) of this paragraph.

No export licenses will be granted for the export of human blood plasma for purely advertising and sales promotion purposes. No export licenses will be granted for the export of human blood plasma to Subgroup A destinations.

(b) *Justification of end use.* (1) Where the human blood plasma is to be used at facilities abroad which, like mining and oil operations, are directly contributing to the defense effort, the applicant for the export license must certify on the license application, or on an attachment thereto, that the quantities covered by the license application are not in excess of the average quarterly requirements of the facility abroad, and furnish evidence to substantiate such requirements by showing previous U. S. exports to the particular facility and its average quarterly consumption.

(2) Where the human blood plasma is to be used for the supply of hospitals, local clinics, or other local health organizations, the applicant shall attach to the license application a statement from the foreign ministry of health setting forth the need, end use, and distribution of the blood plasma covered by the license application.

(3) Where the human blood plasma is to be used for the needs of Americans residing abroad or for American companies operating abroad, the applicant shall attach to the license application a statement prepared by the applicant, the consignee, or medical personnel retained by the consignee setting forth the need, end use, and distribution of the blood plasma covered by the license application.

(4) Where the human blood plasma is to be exported to friendly foreign governments by U. S. exporters for purposes of registering or maintaining the registry of the blood plasma with the foreign government, the license applicant shall so certify on the license application.

COMMODITY GROUP 9

§ 373.59 *Applicability of multiple commodity group provisions to Com-*

modity Group 9 commodities—(a) *Export licensing general policy.* The following commodities within Commodity Group 9 are subject to the provisions of § 373.1 of this subchapter:

Schedule B No.	Commodity description
915000	Diamond disk points and other dental instruments containing diamonds. All RO commodities with the processing codes NONF and COTA.

(b) *Import certificate/delivery verification requirements.* All commodities within Commodity Group 9 which are identified on the Positive List of Commodities by the letter "A" in the column headed "Commodity Lists" are subject to the provisions of § 373.2.

(c) *Evidence of availability requirements.* All commodities within Commodity Group 9 which are identified on the Positive List of Commodities by the letter "D" in the column headed "Commodity Lists" are subject to the provisions of § 373.3.

§ 373.60 *Military wearing apparel*—(a) *Application requirements.* (1) All applications for licenses to export military wearing apparel, new and used, Schedule B No. 999930, must contain a statement fully describing the apparel covered by the application, including the type of apparel, color, and material.

(2) If the wearing apparel has been dyed, the statement must so indicate and specify the color in which the apparel has been dyed. If otherwise altered, the exact nature of the alterations also must be described.

(b) *End use.* In general, applications for licenses covering U. S. Army and Marine Corps outer wearing apparel, for males (excluding boots and shoes) which has not been dyed or otherwise altered will be considered only where exportation is to be made to a foreign government for use by or under the direction of an agency thereof. Applications covering other types of U. S. military wearing apparel will be considered even though not limited to such use.

§ 373.61 *Tools incorporating diamonds.* Applications for licenses to export tools, tool parts, or devices (including dental instruments, Schedule B No. 915000) containing diamonds must be submitted in accordance with the provisions of § 373.33.

SUBPART D—DESTINATION PROVISIONS[6]

§373.65 *Country Group R destinations*—(a) *Scope*—(1) *General.* (i) The provisions of this section apply to all proposed shipments for which validated export licenses are required where the country of ultimate destination is a country in Group R. The applicant must attach to each application for license for such shipments an original or a true copy of a statement or order manually signed by a responsible official of the ultimate consignee (and the foreign purchaser, if different from the ultimate consignee) named in the application, certifying to certain facts relating to the proposed transaction.

(ii) The provisions of this section do not apply if the license application covering the proposed shipment shows that one or more of the following conditions are present:

(*a*) The application for license to export the proposed shipment is covered by an import certificate submitted in accordance with § 373.2.

(*b*) The total value of the shipment, as shown on the license application, is less than $500 and the shipment is not covered by a multiple-transaction statement submitted in accordance with subparagraph (3) of this paragraph.

(*c*) Shipment will be made under a project license issued or to be issued as set forth in Part 374 of this subchapter.

(*d*) The ultimate consignee named in the license application is a foreign government or foreign government agency, and the foreign purchaser (if different from the ultimate consignee) is also a foreign government or a foreign government agency.

(*e*) Shipment will be made by a relief agency registered with the Advisory Committee on Voluntary Foreign Aid, Department of State, to a member agency in the foreign country.

NOTE: These facts and representations set forth in paragraph (a) (2) need not be made by the ultimate consignee where the license applicant is the same person as the ultimate consignee in the country of ultimate destination provided the applicant furnishes on his license application all the applicable information required in paragraph (a) (2). This condition is not present where the applicant and consignee are separate entities, such as parent and subsidiary, or affiliated or associated firms.

(2) *Single-transaction statement from ultimate consignee.* Where an application to export a commodity involves a single transaction, a statement must be submitted certifying to the following facts. Such statements may be submitted on Form IT–842, or in the form of a letter, wire or cable.[7] Statements from the ultimate consignee by wire or cable may be accepted even though not signed manually.

(i) The ultimate destination of the commodity or commodities described in the application (items 9 and 10 of Form IT–842).

(ii) The end use of such commodity or commodities, which must be a detailed description of the specific use to which the commodity or commodities will be put in the country of ultimate destination. If the ultimate consignee intends to distribute or resell, such statement must either contain assurance that distribution and resale will be made only in the country named as ultimate destination or must name all of the other countries in which resale or distribution will be made. The ultimate consignee must also describe the types of customers to whom the resale or distribution will be made and the specific end use to be made of the commodity by such customers. If the ultimate consignee or his customers will use the commodity to produce other end products, these must be named and the country or countries in which such end products will be distributed must also be named, if these facts are known (items 7 and 10 of Form IT–842)

(iii) A description of the export transaction sufficient to identify it as the same transaction described in the application. This requires listing the following:

(*a*) Name and address of the consignee and purchaser (item 1 of Form IT–842)

(*b*) Name and address of the U. S. exporter (item 4 of Form IT–842)

(*c*) Commodities and quantities ordered from the U. S. exporter (item 5 of Form IT–842)

(iv) That the ultimate consignee will promptly send a supplemental statement to the United States exporter of any change of facts or intentions set forth in his statement which occurs after the statement has been prepared and forwarded; and that with respect to any shipment which he proposes to dispose of contrary to the representations made in the statement, he will notify the U. S. exporter and will secure approval of the Office of International Trade through the U. S. exporter prior to such disposition (item 12 of Form IT–842)

(v) An undertaking that the commodity or commodities covered by the statement, and any final products thereof, will not be sold or distributed by the person making the statement, or by his customers in any country or countries not named in the statement (items 9 and 10 of Form IT–842)

NOTE: United States exporters may wish to advise their foreign importers (ultimate consignees and purchasers) to submit these statements in as many copies as the exporter requires for all license applications to be submitted in connection with the importer's order.

(3) *Multiple-transaction statement from ultimate consignee.* (i) Exporters who have a continuing and regular relationship with an ultimate consignee (including but not limited to applicants having foreign branches or subsidiaries or distributors under franchise with the applicant) involving recurring orders for the same commodities to the same destinations and for the same end uses, may submit to the Office of International Trade the original or a copy of a multiple-transaction statement, executed on Form IT–843[7] and signed by a responsible official of the ultimate consignee. This statement shall cover all proposed exportations of such commodities for which applications for export licenses will be submitted to the Office of International Trade during all or any part of the period ending not later than June 30 of the year following the year

[6] These provisions apply to exportations of all commodities to certain destinations. Other special destination provisions relating to particular commodities are set forth in the individual commodity groups in which such commodities are classified (§§ 373.11–373.64). (See §§ 373.01 and 373.02.)

[7] Forms IT–842 and IT–843 may be obtained at all Department of Commerce Field Offices and from the Office of International Trade, Department of Commerce, Washington 25, D. C. Foreign importers may obtain copies of Forms IT–842 and IT–843 from their United States exporters or from any United States Diplomatic and Consular Office abroad.

during which the statement is executed. For example, a statement executed on December 15, 1952, may cover proposed exportations for which license applications are filed on or before June 30, 1954, and a statement executed on January 4, 1954, may cover exportations for which license applications are submitted on or before June 30, 1955.

(ii) If this procedure is used, the exporter shall submit an additional copy[3] of the multiple-transaction statement for each OIT processing code to which the statement applies. When submitting such statements, the exporter must attach a list of the processing codes to which the statement applies.

(iii) All applications for licenses submitted on the basis of a multiple-transaction statement under this procedure must contain the following:

This application is supported by the statement dated _____ from the named consignee to this applicant.

(iv) The statement must be signed by the ultimate consignee, and must contain the following representations and certify as to the following facts:

(*a*) That the statement shall be considered a part of every application for license filed by the named applicant for export of the commodity or commodities described in the statement (item 4 of Form IT–843).

(*b*) That the ultimate consignee will promptly send a supplemental statement to the United States exporter of any change of facts or intentions set forth in the statement which occurs after the statement has been prepared and forwarded; and that, with respect to any shipment which he proposes to dispose of contrary to the representations made in the statement, he will notify the U. S. exporter and will secure approval of the Office of International Trade through the U. S. exporter prior to such disposition (item 13 of Form IT–843)

(*c*) The nature of the ultimate consignee's business, including whether he is the user, seller, etc., of the commodities described in the application (item 6 of Form IT–843).

(*d*) The nature of the consignee's business relationship with the applicant, and how long the relationship has existed (item 7 of Form IT–843)

(*e*) The nature and scope or extent of the ultimate consignee's operations by country and type of customer, including the method of distribution and redistribution, if any, of the commodities covered by the statement or products thereof (items 9, 10, and 11 of Form IT–843)

(*f*) The specific commodities regularly ordered by the ultimate consignee and the respective end uses thereof. The end-use information shall be set forth in as much detail as is known to the consignee in the course of his trade (items 5 and 8 of Form IT–843)

(*g*) If the ultimate consignee regularly sells or distributes a commodity or commodities described in the statement to a particular customer or type of customer, the ultimate consignee shall also describe the kind of products to be produced from the commodity or commodities, and to the extent known, the countries in which such products are produced and distributed (item 11 of Form IT–843)

(*h*) The country or countries where the commodity or commodities covered by the statement, and any final products thereof, will be sold or distributed by the person making the statement, or by his customers (items 10 and 11 of Form IT–843)

(4) *Statement from foreign purchaser* If a purchaser named in any such application is a different person from the named ultimate consignee, the purchaser must either sign the statement from the ultimate consignee or the applicant must also attach to the application the additional statement or order (or wire or cable) executed by such purchaser covering the same subject matter as that required to be furnished by the ultimate consignee.

(5) *Applications filed without statements.* Applications not supplemented by statements (where required) from the ultimate consignee or purchaser will be returned without action to the applicants. However, an applicant who can show to the satisfaction of the Department of Commerce that he has made diligent efforts to obtain such statement and has been unable to get it, may so advise the Department of Commerce in a letter attached to his application, giving the stated reasons of the ultimate consignee or purchaser for failing or refusing to give the applicant such statement.

(6) *30-day grace period for Positive List additions.* When a commodity becomes subject to the requirements of this section by reason of having been added to the Positive List, export license applications for such commodity to Group R countries need not conform to these requirements for a period of 30 days from the time such commodities are added to the Positive List. In lieu of the end-use and ultimate consignee statement during such 30-day period, applications shall be accompanied by any evidence available to the exporter which will support the applicant's representations concerning the ultimate consignee and end use. Such evidence may consist of copies of the letter of credit, the order for the commodities, correspondence between the exporter and the consignee, or other documents from such consignee.

NOTE

1. *Purchase order.* The statement from the ultimate consignee and purchaser may cover more than one purchase order and one purchase order may involve several commodities; however, the statement shall relate only to purchase orders placed by a single ultimate consignee and a single purchaser with a single United States exporter.

2. *Submission of statements covering several applications.* Where the statement covers commodities for which more than one export license application must be submitted, a true copy of the statement shall be attached to each application to which it is equally applicable. Any application to which a true copy of the statement is attached shall contain a reference (OIT case number, if known, or applicant's reference number) to all other applications submitted at any time against the same statement.

3. *True copies and translation requirements.* "True copies" are photostatic or other copies of an original document which are certified by the applicant to be a true copy, either on the face of the photostatic or other copy or on an attachment which identifies the statement. All abbreviations, coded terms, or other expressions having special significance in the trade or to the parties to the transaction must be explained. Documents in a foreign language must be accompanied by an accurate English translation. Such translation need not be made by a translating service, but, if not, must be certified by the applicant to be a correct translation. Exporters may provide their foreign customers with Forms IT–842 and IT–843 translated into the foreign language of the customers. Copies of Forms IT–842 and IT–843 in foreign languages will not be provided by the Office of International Trade. (See § 372.9 of this subchapter.)

4. *Applicant's responsibility for full disclosure.* In submitting statements from the ultimate consignee and foreign purchaser, the applicant is not relieved of responsibility for full disclosure of any other information concerning the ultimate destination and end use of which he has knowledge or belief, whether or not inconsistent with the representations of the ultimate consignee or foreign purchaser. In accordance with the provisions of § 381.1 of this subchapter, the applicant also shall bring to the attention of the Department of Commerce any change in the facts which were set forth in the first or any such supplementary statements from the ultimate consignee or purchaser and which change was brought to his notice by the ultimate consignee or purchaser subsequent to the date the statement was made.

5. *Distribution or resale.* If it is stated in a consignee's statement or on an export license application that the commodity or commodities to be exported are intended for distribution or resale in a country or countries other than the named country of ultimate destination, the validated license will specifically name the country or countries to which distribution or resale is authorized.

(b) *Letterheads and order forms.* The printed name, address, or nature of business of the ultimate consignee or purchaser appearing on his letterhead or order form shall not constitute evidence of either his identity, the country of ultimate destination or end use of the commodities described in the application.

EXPLANATORY STATEMENT AND INTERPRETATIONS

1. Q. What is the multiple-transactions procedure?

A. Many exporters have a continuing and regular relationship with certain of their foreign consignees involving recurring orders for the same kinds of commodities to the same ultimate destinations and for the same end uses. Such cases include, but are not limited to, firms having foreign branches or subsidiaries or franchised distributors. With respect to such transactions, it is recognized that the requirement of individual "ultimate consignee" statements with each application may be unnecessarily repetitious and possibly burdensome. To meet this problem, the multiple-transactions procedure has been established by which the Office of International Trade will accept a single statement from the ultimate consignee covering the information required by the regulation.

Under the multiple-transaction procedure, the statement (Form IT–843) will be treated as a part of every application filed by the applicant for export of a commodity to the consignee until the date shown on the state-

[3] Each copy submitted but not manually signed by the consignee or purchaser must be certified to be a true copy of the original, as provided in § 372.9 of this subchapter.

ment as its expiration date. However, if the statement does not contain any date for expiration, the statement will be treated as a part of every application filed by the applicant for export of a commodity to the consignee until June 30, 1953. If there is any future change in the matters set forth in the statement, the consignee must promptly send the applicant a supplemental statement reflecting such change. The statement must be signed by a responsible official of the ultimate consignee who may be located either in the United States or abroad.

2. Q. What is the purpose of the Ultimate Consignee Statement Regulation?

A. Applicants have always been required to submit on their applications information regarding the ultimate destination and end use of the commodities to be exported. It had been OIT practice to rely largely upon the applicant's own representations in this regard, supplemented, in proper cases, by direct inquiries here and abroad to verify such representations. Many applicants have regularly been obtaining information of this character from their customers to provide assurance to themselves for the representations which they have been required to make in their applications. Moreover, such information has been readily made available to OIT by applicants and foreign consignees in specific instances.

The regulation is intended simply to regularize these practices and, more specifically, to make more certain that foreign consignees are fully aware of their responsibility not only for the representations made to OIT but also for the proper disposition of the licensed commodities in the foreign country. In addition, it should facilitate the processing of applications and curtail the expensive and time-consuming supplementary inquiries now often necessary.

3. Q. To what cases does this requirement apply?

A. The statement is required only in connection with applications for validated licenses to ship commodities to Group R destinations (except project licenses, for which such information is already required).

4. Q. From whom is the statement required?

A. The statement must be furnished by the firm or individual that will be named as ultimate consignee on the application and also from the firm or individual that will be named as purchaser on the application, if not the same as the named ultimate consignee.

5. Q. Is any particular form of statement required by OIT?

A. Statements submitted under the multiple procedure must be on Form IT–843. Individual statements may be submitted on Form IT–842, or in the form of a letter, wire, cable, or other statement provided that all the required information is supplied. No form of notarial or other government certification is necessary.

6. Q. Must all the specified items of information be covered in the statement?

A. Yes, to the extent they are pertinent. This is an information-seeking requirement and, therefore, is satisfied by the furnishing of all applicable information. Of course, if applicable information is unknown, that fact should also be disclosed.

7. Q. What is the liability of the ultimate consignee or purchaser for misrepresentations, failure to disclose facts or for disposition of commodities contrary to representations made in the required statement?

A. Depending upon the particular circumstances, such ultimate consignee or purchaser may be subject to administrative action by OIT, looking to suspension or revocation of licensing privileges and denial of other participation in U. S. exports.

8. Q. Will submission of the required information in a statement from the consignee assure the approval of a particular licence application?

A. Favorable action is, of course, not assured by the submission of the end-use and destination statement from the consignee. While information regarding end-use and destination are essential, other criteria and policies will have to be considered in connection with the issuance of licences.

9. Q. When the ultimate consignee is a foreign government does this regulation apply?

A. Where the ultimate consignee named in the application is a government or government agency, no statement by such consignee as to end-use and destination will be required. However, if a purchaser other than the foreign government or government agency is named on the application in such a transaction, a statement from the purchaser will be required.

10. Q. When exportations are financed by U. S. or International agencies, such as MSA, Export-Import Bank, International Bank, MDAP, etc., will the statement of end-use and destination be required?

A. Yes, because government financing generally is not made with reference to specific transactions.

11. Q. If a foreign party placing the order with the U. S. applicant is a reseller, from whom is the consignee statement required?

A. (a) When the foreign consignee who placed the order with the U. S. supplier is a reseller of goods to whom the U. S. supplier ships directly, the reseller is properly designated as the "ultimate consignee," and a statement from him is required designating the end use as "resale," plus the other pertinent facts required by the regulation.

(b) If the U. S. exporter ships directly to the customer of the foreign reseller, the reseller must be designated as the purchaser, and the customer of the reseller as ultimate consignee. An end-use and destination statement will be required from each of these parties. For example:

If a foreign distributor of automobiles orders and receives delivery of a shipment from his U. S. supplier, such a distributor shall be designated as the ultimate consignee and a statement of end use and destination from him is required. However, if the foreign distributor places the order with his U. S. supplier with instructions to ship directly to his customer, then the foreign distributor's customer must be designated as ultimate consignee. A statement from each of these parties is required.

In the case of highly strategic commodities and other commodities licenced principally on the basis of end use, the OIT, after receipt of the application, may require additional information (in accordance with the provisions of § 372.10) regarding the use to be made of the commodity by the actual user or consumer, when such additional information is deemed necessary to a proper consideration of the application. This may also include a requirement for a written statement from the actual end user.

12. Q. Who can sign the ultimate consignee statement?

A. A responsible official of the ultimate consignee who can bind the person or firm to its commitments. This official may be located in the United States or in a foreign country.

§ 373.66 *Austria, the Belgian Congo or Sweden.* (a) Each applicant for a license to export commodities to Austria, the Belgian Congo, or Sweden shall show in the space provided on the application, Form IT–419, the number of the import certificate or other import authorization[9] upon which the application is based. However, the Office of International Trade will consider the granting of an exception to this requirement where the ultimate consignee is unable to furnish the U. S. exporter with the import certificate number or other import authorization and the granting of an exception will not be contrary to the objectives of the United States export control program. The OIT may waive the requirement where it is shown that the inability of the foreign importer to provide the required information was due to discrimination against the United States exporter by the foreign government or for any other valid reason of similar importance.

(b) Each request for exception shall be by letter, in duplicate, accompanying the license application to which it applies, addressed to the Office of International Trade, Department of Commerce, Washington 25, D. C. The letter request should include, among other things, the nature and duration of the business relationship between the applicant and the importer shown on the license application; the reason or reasons for the foreign importer's inability to obtain the number of the import certificate or other import authorization from his government; a statement as to whether the exporter has previously submitted to the OIT any numbers of import certificates or other import authorizations issued in the name of the importer and a listing of OIT case numbers to which such certificates applied; and any other facts which would justify the granting of an exception. The applicant should also attach to his letter request, or have on file in the OIT, a statement from the consignee and purchaser in accordance with § 373.65. No request will be considered or granted unless such statement is submitted or is on file in the OIT.

(c) Where the letter request relates to more than one license application, whether submitted at the same time or at a later date, the original letter request shall be attached to one application and a copy of the letter request shall be attached to each additional application to which it is equally applicable. Any application to which a copy of the letter request is attached shall contain a reference (OIT case number, if known, or applicant's reference number) to the application to which the original letter request was attached.

§ 373.67 *Switzerland—(a) Import license requirement.* (a) License applications for export of commodities to Switzerland must be accompanied by the original blue import certificate issued the Swiss importer by the Swiss Federal Department of Public Economy, Division of Commerce, Import and Export Control, covering the proposed exportation from the United States. Where the blue im-

[9] For exportations to Austria, the applicant must show the Austrian import identification number. Such numbers run in series from 1,000 to 399,999 inclusive, and in all instances will be preceded by the letters "IKN."

port certificate covers commodities for which more than one export license application must be submitted, the original of the certificate shall be attached to one application and a true copy of the certificate shall be attached to each additional application to which it is equally applicable. Any application to which the certificate or a true copy is attached shall contain a reference (OIT case number, if known, or applicant's reference number) to all other applications submitted at any time against the same certificate.

(b) Applicants submitting a license application for export of commodities to Switzerland must make one of the following certifications on the face of the license application:

I (we) certify that I (we) have submitted no other applications against the attached Swiss blue import certificate No. _____.

I (we) certify that I (we) have not submitted applications against the attached Swiss blue import certificate No. _____ in excess of the total quantity authorized thereon.

NOTE: The Swiss blue import certificate provides that the Swiss importer has pledged himself directly to import the commodities into the Swiss customs territory and that any reexportation of these goods is prohibited. (See § 372.9 of this subchapter with respect to submission of true copies of documents to the Office of International Trade.)

This requirement for submission of Swiss certificates does not alter the requirement for statements from the Swiss ultimate consignee (and purchaser, if different from the ultimate consignee) in accordance with § 373.65 of this subchapter. In addition, shipments to Switzerland remain subject to § 381.4 of this subchapter requiring a statement on the shipper's export declaration, bill of lading, and commercial invoice, to the effect that the commodities are licensed by the United States for ultimate destination Switzerland and that diversion contrary to United States law is prohibited.

If the Swiss importer is unable to obtain the commodities covered by a blue import certificate, he is required by the Swiss Government to produce evidence of such inability. Therefore, the Office of International Trade will return the certificate to the U. S. exporter (applicant), for forwarding to the Swiss importer, whenever an application for export of commodities to Switzerland is rejected or is approved in a reduced quantity. In such cases the U. S. exporter should forward the certificate to the Swiss importer as soon as he determines that the certificate will not be used with a new or resubmitted license application, or an appeal. Appropriate notation will be made on the certificate by the Office of International Trade indicating such facts.

Where an import certificate has been submitted to the OIT covering an exportation for the account of an importer pursuant to the provisions of § 373.2 and the exportation is subsequently to be reexported to Switzerland, the applicant for export license is not required to submit a Swiss blue import certificate to the OIT. However, the exporter is required to secure permission from OIT prior to reexportation, in compliance with § 372.14 (a) of this subchapter.

(b) *Exceptions.* (1) The Office of International Trade will consider the granting of an exception to the requirement for submission of the blue import certificate where the ultimate consignee has been unable to obtain the required document and the granting of an exception will not be contrary to the objectives of the United States export control program. The OIT may waive the requirement of the submission of the blue import certificate where the refusal by the foreign government to issue the import certificate constitutes discrimination against the United States exporter, or for any other valid reason of similar importance. Each such request or exception shall be by letter, in duplicate, accompanying the license application to which it applies, addressed to the Office of International Trade, Department of Commerce, Washington 25, D. C. The letter request should include, among other things, the nature and duration of the business relationship between the applicant and the importer shown on the license application; the reason or reasons for the foreign importer's inability to obtain the blue import certificate from his government; a statement as to whether the exporter has previously submitted to the OIT any blue import certificates issued in the name of the importer and a listing of OIT case numbers to which these certificates applied; and any other facts which would justify the granting of an exception. The applicant should also attach to his letter request, or have on file in the OIT, a statement from the consignee and purchaser in accordance with § 373.65. No request will be considered or granted unless such statement is submitted or is on file in the OIT.

(2) Where the letter request relates to more than one license application, whether submitted at the same time or at a later date, the original letter request shall be attached to one application and a copy of the letter request shall be attached to each additional application to which it is equally applicable. Any application to which a copy of the letter request is attached shall contain a reference (OIT case number, if known, or applicant's reference number) to the application to which the original letter request was attached.

SUBPART E—TIME SCHEDULES FOR SUBMISSION OF APPLICATIONS FOR LICENSES

§ 373.71 *Supplement 1. Time schedules for submission of applications for licenses to export certain positive list commodities.*[1a]

[Second and Third Quarters, 1953]

Dept. of Commerce Schedule B No.	Commodity	Submission dates	
		Second quarter 1953	Third quarter 1953
	Petroleum and products		
503300 through 504100	Lubricating oils and greases (for shipments to Burma, Ceylon, Taiwan, Indochina, Hong Kong, India, Macao, Federation of Malaya, Republic of Indonesia, Pakistan, Republic of the Philippines, Singapore, and Thailand. (See § 373.8 of this subchapter).)	On or before Feb. 15, 1953.	
	Other nonmetallic minerals (precious included)		
571500	Sulfur, ground, refined, sublimed and flowers	Mar. 1-Mar. 31, 1953.	
	Metals and manufactures[1]		
	Commodities designated "C" on the Positive List:[2]		
	Commodities with processing code STEE, carbon and stainless steel only.[3]	Nov. 24-Dec. 20, 1952.	Mar. 2-Mar. 31, 1953.
	Commodities with processing code NONF	Dec. 1-Dec. 31, 1952.	
	Commodities with processing code TNPL: Specification production plate	Dec. 15, 1952-Jan. 9, 1953.	
	Commodities other than controlled materials:		
619039	Nickel and manufactures: Nickel welding rods and wires	Mar. 9-Mar. 23, 1953.	
619159	Nickel powders, including nickel-chrome-boron powder.		
619950	Nickel catalysts; and nickel slugs		
654503 through 654519	Nickel and nickel alloys, and semifabricated forms except scrap.		
664998	Nickel thermo bimetal, nickel thermometal and nickel thermostatic metal.		
709885	Nickel-chrome electric resistance wire: insulated		
619152	Magnesium metal powder	Apr. 6-Apr. 30, 1953.	
664547	Magnesium metal and alloys in crude form and scrap		
664549	Magnesium semifabricated forms, n. e. c		
619159	Selenium powder	Mar. 23-Apr. 6, 1953.	
664998	Selenium metal		
664526	Cobalt dental alloys	Mar. 30-Apr. 13, 1953.	

[1a] Applications for licenses to export commodities for which no specified filing dates are announced may be submitted at any time. (See § 372.3 (a) of this subchapter.) Export applications for commodities requiring a validated license when moving in transit through the United States may be submitted at any time and are not subject to specified filing dates (see § 372.4 of this subchapter).

[1] The submission dates for these commodities are also applicable to project license applications (see §§ 374.2 (f) and 374.3 (d) of this subchapter), and to petroleum project licenses, as provided in § 398.8 (e) of this subchapter.

[2] Controlled materials are identified on the Positive List by the letter "C" in the column headed "Commodity Lists."

[3] See §§ 398.5 (b) (6), 398.5 (b), (7), 398.5 (b), (8), and 398.8 (k) and (l), of this subchapter for exception to these dates under certain conditions.

5. Part 374, Project Licenses, is amended in the following particulars:

a. Section 374.2 *Dollar limit (DL) licenses* paragraph (d) *Statement of estimated requirements* is amended to read as follows:

(d) *Statement of estimated requirements.* (1) A statement, in duplicate, of the estimated commodity requirements requiring validated export license for one year, or less if the project or program is of shorter duration. Except for the re-

stricted commodities described in paragraph (e) of this section, such statements shall be made in terms of broad descriptive categories corresponding with the unnumbered commodity subgroup headings which appear on the Positive List under the main numbered commodity group headings; for example:

Under Commodity Group 2, "Rubber (Natural, Allied Gums, and Synthetics) and Manufactures."

Under Commodity Group 5, "Petroleum and Products."

Under Commodity Group 6, "Metal Manufactures."

(2) The total dollar value of the requirements for each category of commodities shall also be shown. With respect to the restricted commodities described in paragraph (e) of this section, a separate statement of requirements, in duplicate, shall be made, stated in terms of the specific commodity description, Schedule B number and the unit of quantity shown for that commodity entry on the Positive List, as well as in terms of the total dollar value for each commodity.

NOTE: Commodities which do not require a validated license for export to the country in question should not be listed on the statement of estimated requirements.

b. In § 374.3 *SP (Special) project licenses* paragraph (d) *Commodity requirements for other than petroleum projects or programs, Form IT–375* and paragraph (e) *Commodity requirements for petroleum projects and programs,* the references to § 373.16 are amended to read "§ 373.3"

6. Part 376, Periodic Requirements License, is amended in the following particulars:

a. Section 376.1 *Periodic requirements license* paragraph (a) *General* is amended to read as follows:

(a) *General.* A procedure for a Periodic Requirements license (PRL) is hereby established. Under this procedure, a single application may be made to export commodities listed in § 376.51 (and also identified on the Positive List by the letter "E" in the column headed "Commodity Lists") at any time during the period authorized by § 376.51 to one or more named ultimate consignees at a named ultimate destination.

b. Section 376.2 *Certificate of qualification for periodic requirements license* paragraph (c) *Preparation of documents,* subparagraph (2) *Form IT–821* is amended to read as follows:

(2) *Form IT–821.* This form shall be filed in accordance with the provisions of § 373.4 of this subchapter, with the following modifications: The report on Form IT–821 shall cover the quantity of exports of the commodity (§ 376.51) shipped to each consignee during a period of two full years immediately preceding the submission of the certificate of qualification (Form IT–888) for the exportation of that commodity. The name and address of the consignee shall be shown under appropriate countries listed in item 4 (a) of Form IT–821.

c. In the note following § 376.3 *Application for periodic requirements license* the parenthetical reference to (§§ 373.34 and 372.3 (d) respectively) is amended to read "(§§ 373.2 and 373.65 of this subchapter, respectively)"

d. Section 376.51. *Supplement 1. Commodities subject to periodic requirements license* is amended to read as follows:

§ 376.51 *Supplement 1. Commodities subject to periodic requirements license.* Applications for certificates of qualification for licensing under the PRL procedure established in Part 376 of the Comprehensive Export Schedule may be submitted for exportation of the following commodities to destinations other than Hong Kong, Macao, those in Subgroup A, and any destination specifically excepted below for a particular commodity.

Schedule B No.	Commodity description	License validity period [1]	Excepted destinations (in addition to Hong Kong, Macao, and those in subgroup A) [2]
503000	Red and pale oils (including all red or pale lubricating oils, except those oils intended for use in internal combustion engines) (see 503010 and 504000) (barrels of 42 gallons).		
503400	Black oils (including all black and dark green oils, except those intended for use in steam cylinders) (barrels of 42 gallons).		
503510	Cylinder, bright stock (including bright stock and industrial lubricating oils which are predominantly bright stock and have a Saybolt Universal Viscosity at 210° F. of 85 seconds or more) (barrels of 42 gallons).		
503520	Cylinder, steam-refined stocks (including cylinder stock, steam cylinder oil, gear, and other lubricating oils consisting principally of such stocks) (barrels of 42 gallons).		
503800	Insulating or transformer oils.		
503910	Diesel engine lubricating oils (report diesel fuel oil in 503100) (barrels of 42 gallons).		
503920	Turbine lubricating oil (barrels of 42 gallons)		
503940	Other industrial engine lubricating oils (barrels of 42 gallons) (specify by name).		
503990	Industrial lubricating oils, n. e. c. (barrels of 42 gallons) (specify by name).		
504005	Aviation engine lubricating oils (barrels of 42 gallons)		
504020	Automotive engine lubricating oils (barrels of 42 gallons)		
504029	Automotive gear oils (barrels of 42 gallons) (specify by kind and grade).		
504050	Lubricating oils, n. e. c., except in containers of 4 ounces or less (specify by name).		
504095	Cutting oils and compounds, petroleum base (report cutting oils and compounds, except petroleum base in 503200) (specify by name).		
504100	Lubricating greases, except graphite lubricants (report graphite lubricants in 515705)		
504200	Petrolatum and petroleum jelly (all grades)		
504400	Microcrystalline wax		
504700	Petroleum asphalt and products (report natural asphalt in 517000 and 517100; asphalt tile in 519900; and asphalt composition roofing in 902500).		
504900	Petroleum coke, including petroleum coke flour		
545000	Asbestos brake lining, molded and semimolded		
545700	Asbestos brake lining, woven		
545800	Asbestos clutch facing, molded, semimolded, and woven, including clutch lining.		
701000	Automotive storage batteries, 6- and 12-volt, lead-acid type		
703030	Spark plugs, automobile, bus, tractor, truck, and industrial engine type.		
709220	Starting, lighting, and ignition equipment, n. e. c., and specially fabricated parts and accessories, n. e. c. automobile, bus, tractor, truck, and industrial engine type (specify by name.)		
709365	Automotive ignition wire in coils, reels, or spools in lengths of 100 feet or less; other rubber and/or synthetic rubber-insulated wire and cable (except building wire and cable), with plain, braided, leaded, or armored finishes (specify by name).		
713900	Marine engine accessories, and specially fabricated parts (specify diesel or gasoline); parts, n. e. c., specially fabricated for internal combustion locomotive engines (report H. P. and RPM of engines requiring parts); other parts and accessories, n. e. c., specially fabricated for internal combustion engines, n. e. c.		
720210	Parts, accessories and attachments, n. e. c., specially fabricated for power excavators included on the Positive List under Schedule B Nos. 720112 through 720142, and 720160.		
721540	Parts and accessories, n. e. c., specially fabricated for the equipment included on the Positive List under Schedule B Nos. 721510 and 721520.		
722045	Parts and accessories, n. e. c., specially fabricated for scrapers, graders and pneumatic tired roll compactors; and self-propelled, steel-tired road rollers.		
722045	Parts and accessories, n. e. c., specially fabricated for contractors' wheel type tractors.		
722045	Parts and accessories, n. e. c., specially fabricated for angle dozers; brush cutters; brushrakes; bulldozers, clamshell attachments; ditching attachments; excavating attachments; hydraulic controls for track-laying tractors; loading attachments; rippers attachments; rooter attachments; snowplow attachments; trail-bull lars; tree lazers; trenching attachments; and winches for tracklaying tractors.		
722045	Specially fabricated parts for: contractors' trucks, dump wagons, quarry trailers, and other off-the-road haulage vehicles; subgraders.		
722045	Specially fabricated parts for: logging arches and cables; and rotary snowplows.		
722080	Specially fabricated parts, n. e. c., for cranes included on the Positive List under Schedule B Nos. 722010 through 722070.		
722090	Parts, accessories, and attachments, n. e. c., specially fabricated for fully or partially powered industrial trucks and tractors.		
730810	Specially fabricated parts, n. e. c., for underground loading machines		
732000	Parts and accessories, n. e. c., specially fabricated for well drilling machines.		
709950	Controls, regulators, indicators, meters, and timers, for ventilating, air conditioning, commercial refrigeration and air cooling equipment; and specially fabricated parts, n. e. c.		
709970	Specially fabricated parts, n. e. c., for industrial indicating, recording, or controlling instruments for pressure, flow, temperature, humidity or gas analysis.		
709100	Alloy steel ball bearings, and specially fabricated parts except balls		

[1] Unless otherwise indicated in this column, the validity period of PRL licenses shall expire on the last day of the sixth month following the month during which the license is issued.

[2] Unless otherwise indicated in this column, excepted designations include only Hong Kong, Macao, and those in Subgroup A.

Schedule B No.	Commodity description	License validity period [1]	Excepted destinations (in addition to Hong Kong, Macao, and those in subgroup A) [2]
769100	Carbon steel ball bearings, and specially fabricated parts except balls		
769200	Alloy steel roller bearings, and specially fabricated parts except rollers		
769200	Carbon steel roller bearings, and specially fabricated parts except rollers		
769310	Alloy steel balls for bearings		
769310	Carbon steel balls for bearings		
769315	Alloy steel rollers for bearings		
769315	Carbon steel rollers for bearings		
770630	Parts, n. e. c., specially fabricated for air compressors included on the Positive List under Schedule B Nos. 770400 through 770615.		
770775	Specially fabricated parts for types of blowers included on the Positive List under Schedule B Nos. 770700 through 770775.		
770995	Parts, n. e. c., specially fabricated for pumps classified under Schedule B Nos. 770900 through 770950, and 770980, irrespective of delivery pressures, operating temperatures and materials used in their fabrication.		
788901	Parts and accessories, n. e. c., specially fabricated for tracklaying tractors		
790013	Motor trucks and truck chassis, including truck tractors, gasoline (new), 5,000 pounds gross vehicle weight and under: commercial, front and rear axle drive, or multiple rear axle drive.		
790023	Motor trucks and truck chassis, including truck tractors, gasoline (new), 5,001 to 10,000 pounds gross vehicle weight: commercial, front and rear axle drive, or multiple rear axle drive.		
790033	Motor trucks and truck chassis, including truck tractors, gasoline (new), 10,001 to 14,000 pounds gross vehicle weight: commercial single rear axle drive only: commercial, front and rear axle drive, or multiple rear axle drive.		
790043	Motor trucks and truck chassis, including truck tractors, gasoline (new), 14,001 to 16,000 pounds gross vehicle weight: commercial, single rear axle drive only; commercial, front and rear axle drive, or multiple rear axle drive.		
790053	Motor trucks and truck chassis, including truck tractors, gasoline (new), 16,001 to 19,500 pounds gross vehicle weight: commercial, single rear axle drive only; commercial, front and rear axle drive, or multiple rear axle drive.		
790063	Motor trucks and truck chassis, including truck tractors, gasoline (new), 19,501 pounds gross vehicle weight and over: commercial, single rear axle drive only; commercial, front and rear axle drive, or multiple rear axle drive.		
790083	Motor trucks and truck chassis, including truck tractors, diesel and semidiesel (new), 19,500 pounds gross vehicle weight and under: commercial, single rear axle drive only; commercial, front and rear axle drive, or multiple rear axle drive.		
790093	Motor trucks and truck chassis, including truck tractors, diesel and semidiesel (new), 19,501 pounds gross vehicle weight and over: commercial, single rear axle drive only; commercial, front and rear axle drive, or multiple rear axle drive.		
790553	Motor busses and bus chassis, gasoline (new): commercial, single rear axle drive only; commercial, front and rear axle drive, or multiple rear axle drive.		
790563	Motor busses and bus chassis, diesel and semidiesel (new): commercial; single rear axle drive only; commercial, front and rear axle drive, or multiple rear axle drive.		
790763	Passenger cars and chassis (new): Nonmilitary, front and rear axle drive only.		
791205	Parts and accessories specifically ordered and invoiced as original equipment for passenger, commercial, and military vehicles previously shipped (include only normal and usual parts and accessories for which no additional charge is being made—such items having been either in short supply or inadvertently omitted at the time of the original shipment of the vehicles).		
791210	Commercial motor truck and bus engines for assembly: diesel and semidiesel.		
791220	Commercial motor truck and bus engines for assembly: gasoline; gas and kerosene, over 10 horsepower.		
791230	Commercial passenger car engines for assembly		
791240	Commercial motor truck, bus, and passenger car engines for replacement: diesel and semidiesel.		
791250	Commercial motor truck, bus and passenger car engines for replacement: gasoline; gas and kerosene, over 10 horsepower.		
791255	Bodies, truck and bus, for assembly		
791260	Bodies, truck and bus, for replacement		
791265	Bodies, automobiles, for assembly		
791270	Bodies, automobile, for replacement		
791275	Knee-action springs (helical or coil), for replacement		
791280	Leaf springs and spring leaves, for replacement		
792610	Parts and accessories, n. e. c., specially fabricated, for assembly; except: air cleaners, ammeters; brake extension handles; bumpers; clearance lights; dash board plugs; door locks; fog lights; heaters; horns; hub caps; hydraulic truck dumping hoists; lighters; oil filter clamps; oil filters; oil pressure switches; oil purifiers; oil rectifiers; parking lights; power take-offs for trucks; radiator caps; radiator ornaments; reflex signals; road traffic; shock absorbers; speedometers; spotlights; stop lights; taxicab meters; thermostats; third axle assemblies; tire locks; windshield wipers; and specially fabricated parts for the excepted items.		
792620	Parts, n. e. c., specially fabricated, for spares, replacement, or manufacture into larger components, except: air cleaners; brake extension handles; bumpers; door locks; horns; hub caps; hydraulic truck dumping hoists; oil filter clamps; oil filters; oil purifiers; oil rectifiers; parking lights; radiator caps; radiator ornaments; reflex signs, road traffic; stop lights; thermostats; third axle assemblies; windshield wipers; and specially fabricated parts for the excepted items.		
829910	Antiknock compounds except of petroleum origin (report compounds of petroleum origin in 501400).		

[1] Unless otherwise indicated in this column, the validity period of PRL license shall expire on the last day of the sixth month following the month during which the license is issued.
[2] Unless otherwise indicated in this column, excepted destinations include only Hong Kong, Macao, and those in Subgroup A.

7. Part 379, Export Clearance, is amended in the following particulars:

a. In the note following paragraph (f) *Shipments via mail* of § 379.1 *Presentation for export,* the parenthetical reference "(See § 371.23)" is amended to read "(See § 371.21 of this subchapter)"

b. In the note following paragraph (b) *Use of authenticated shipper's export declaration* the reference to "§ 373.11 (e) or § 372.11 (f)" is amended to read "§ 372.11 (e) (f) of this subchapter"

8. Part 380, Amendments, Extensions, Transfers, is amended in the following particulars:

a. In § 380.2 *Amendments or alterations of licenses,* paragraphs (b) *Where to file* and (c) *Procedure for submitting requests for amendments,* the references to § 373.29, § 372.3 (d) and § 373.34 (c) are amended to read "§ 373.44", "§ 373.65" and "§ 373.2" respectively.

b. In § 380.2 *Amendments or alterations of licenses,* paragraph (d) *Disclosure on amendment requests of prior action on the shipment,* the second sentence of subparagraph (2) *Prior exportation without a license* is amended to read as follows: "In such cases where the shipment should have been authorized by a validated license, or amendment thereto, the exporter should send a letter or wire to the Export Control Investigation Staff, Office of International Trade, Department of Commerce, Washington 25, D. C., explaining why a validated license (or amendment thereto) was not obtained and disclosing all the facts concerning the shipment that would normally have been disclosed on the Request for and Notice of Amendment Action, Form IT–763."

9. Part 383, Appeals, is amended in the following particulars:

Section 383.1 *General procedure for appeals,* paragraph (h) *Consideration of appeals* is amended by numbering the first unnumbered subparagraph as subparagraph (1) and by renumbering subparagraphs (1) *Oral presentations* and (2) *Records* as (2) and (3) respectively.

10. Part 384, General Orders, is amended in the following particulars:

Paragraphs (a) *Raw cotton* and (d) *Iron and steel products* of § 384.8 *Orders modifying validity of certain export licenses* are deleted.

11. Part 398, Priority Ratings and Supply Assistance, is amended in the following particulars:

a. Wherever it appears in Part 398 the reference to "§ 398.1 (c)" is amended to read "§ 398.53"

b. In § 398.2 *Serial numbers for mines, smelters and mineral processing plants abroad,* paragraph (f) *Serialization number required on export license applications* the reference to "§ 373.28" is amended to read "§ 373.5"

c. In § 398.7 *Supply assistance for foreign mining operations: MRO and capital additions* the last sentence of paragraph (b) *Scope* is amended to read as follows: "However, no limit is placed upon a producer's acquisition of additional products or materials (other than controlled materials) for minor capital additions without the use of a rating."

d. In § 398.8 *Supply assistance for foreign petroleum operations* the table set forth in paragraph (j) *Assignment and use of allotment symbols and DO ratings* is amended to read as follows:

	MSA countries [1]	Other (except Canada)
Controlled materials and "A" products.	W-4	W-2.
Other	DO-W-4	DO-W-2.
Direct defense	C-6	C-6.

[1] Listed in § 398.53 of this subchapter.

This amendment shall become effective as of March 31, 1953.

(Sec. 3, 63 Stat. 7; 65 Stat. 43; 50 U. S. C. App. Sup. 2023. E. O. 9630, Sept. 27, 1945, 10 F. R. 12245, 3 CFR, 1945 Supp., E. O. 9919, Jan. 3, 1948, 13 F. R. 59, 3 CFR, 1948 Supp.)

LORING K. MACY,
Director
Office of International Trade.

[F. R. Doc. 53-3453; Filed, Apr. 21, 1953; 8:45 a. m.]

TITLE 20—EMPLOYEES' BENEFITS

Chapter II—Railroad Retirement Board

PART 208—ELIGIBILITY FOR AN ANNUITY

ESTABLISHMENT OF PERMANENT DISABILITY FOR WORK IN THE APPLICANT'S "REGULAR OCCUPATION"

Pursuant to the general authority contained in section 10 of the act of June 24, 1937 (sec. 10, 50 Stat. 314; 45 U. S. C. 228j) § 208.11 of the regulations under such act (12 F. R. 859; 13 F R. 2836) is amended by Board Order 53-35, dated April 8, 1953, to read as follows:

§ 208.11 *Establishment of permanent disability for work in the applicant's "regular occupation"* (a) An individual's physical or mental condition shall be deemed to be permanently disabling for work in his "regular occupation," whether or not he has been disqualified for such work by his employer, if, in accordance with the occupational disability standards established by the Board, he is physically or mentally unable to perform the duties of such occupation, and the facts of his physical or mental condition afford a reasonable basis for an inference that such condition is permanent. The cause of the disabling physical or mental condition is immaterial. If the employee's regular occupation is one with respect to which occupational disability standards have not been established by the Board, the occupational disability standards established by the Board for a reasonable comparable occupation in the railroad industry shall govern the determination of the individual's inability to work in his regular occupation; and in the absence of such comparable occupation, such determination shall be made by ascertaining whether under the practices generally prevailing in other industries having such occupation, the individual's physical or mental condition is a permanent disqualification for work in his regular occupation. The condition of permanent disability for work in the individual's regular occupation must be established in each particular case in the manner and to the extent prescribed by the Board.

(b) In the case of an individual whose last employment was as an officer or employee of a railway labor organization, including a subordinate unit "employer" and to whom continuance in such employment is not available, the disability standards to be applied shall be those applicable to the position to which the individual holds seniority rights or from which he left to assume a position with a railway labor organization.

(Sec. 10, 50 Stat. 314; 45 U. S. C. 228j)

Dated: April 15, 1953.

By authority of the Board.

MARY B. LINKINS,
Secretary of the Board.

[F. R. Doc. 53-3505; Filed, Apr. 21, 1953; 8:46 a. m.]

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

PART 141—TESTS AND METHODS OF ASSAY FOR ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

PART 146—CERTIFICATION OF BATCHES OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

EXEMPTION FROM CERTIFICATION OF ANTIBIOTIC DRUGS FOR USE IN ANIMAL FEED AND OF ANIMAL FEED CONTAINING ANTIBIOTIC DRUGS

By virtue of the authority vested in the Secretary by the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 52 Stat. 1040, 1055, as amended by 59 Stat. 463, 61 Stat. 11, 63 Stat. 409; 21 U. S. C. 357; 61 Stat. 18), the regulations for tests and methods of assay for antibiotic and antibiotic-containing drugs (21 CFR, 1951 Supp. 141) and certification of batches of antibiotic and antibiotic-containing drugs (21 CFR, 1951 Supp. 146; 17 F. R. 8533, 11306, 11738; 18 F. R. 1205) are amended as indicated below:

1. Section 141.216 *Aureomycin therapeutic formula for animal feed* is hereby revoked.

2. Section 146.61 is amended to read:

§ 146.61 *Penicillin for use in animal feed, streptomycin for use in animal feed, dihydrostreptomycin for use in animal feed, aureomycin for use in animal feed; chloramphenicol for use in animal feed; bacitracin for use in animal feed.* Penicillin, streptomycin, dihydrostreptomycin, aureomycin, chloramphenicol, or bacitracin, or any combination of two or more of these, with or without those ingredients specified in § 146.62, intended for use solely as an ingredient in the manufacture of animal feed and conspicuously so labeled shall be exempt from the requirements of sections 502 (l) and 507 of the act if it complies with the following conditions:

(a) It contains one or more suitable denaturants that make it unfit for human use; and

(b) Its labeling is such that animal feed mixed according to the directions contained therein complies with the requirements of § 146.62.

2. Section 146.62 is amended to read:

§ 146.62 *Animal feed containing penicillin; animal feed containing streptomycin; animal feed containing dihydrostreptomycin; animal feed containing aureomycin; animal feed containing chloramphenicol; animal feed containing bacitracin.* Animal feed containing penicillin, streptomycin, dihydrostreptomycin, aureomycin, chloramphenicol, or bacitracin, or any combination of two or more of these, with or without added suitable vitamin substances, shall be exempt from the requirements of sections 502 (*l*) and 507 of the act under the conditions set forth in any one of paragraphs (a) through (h), inclusive, of this section, as follows:

(a) It is intended for use solely as an animal feeding supplement, it is conspicuously so labeled, and it is manufactured with or without one, but only one, of the following ingredients in a quantity, by weight of feed, as hereinafter indicated:

(1) Arsanilic acid: Not less than 0.005 percent and not more than 0.01 percent.

(2) Sodium arsanilate: Not less than 0.005 percent and not more than 0.01 percent.

(3) 3-nitro-4-hydroxyphenyl arsonic acid: Not less than 0.00375 percent and not more than 0.005 percent.

(b) It is intended for use solely in the prevention of coccidiosis outbreaks in poultry flocks, its labeling bears adequate directions and warnings for such use, and it contains one, but only one, of the following ingredients in a quantity, by weight of feed, as hereinafter indicated:

(1) Sulfaquinoxaline: Not less than 0.0125 percent and not more than 0.025 percent.

(2) Nitrophenide: Not less than 0.0125 percent and not more than 0.025 percent.

(3) Nitrofurazone: 0.0056 percent.

(4) N^1-acetyl-N^1-(4-nitrophenyl) sulfanilamide 0.03 percent and 3-nitro-4-hydroxyphenylarsonic acid 0.009 percent.

(c) It is intended for use solely in the control of coccidiosis outbreaks in poultry flocks, its labeling bears adequate directions and warnings for such use, and it contains one, but only one, of the following ingredients in a quantity, by weight of feed, as hereinafter indicated:

(1) Sulfaquinoxaline: Not less than 0.033 percent and not more than 0.10 percent.

(2) Nitrophenide: 0.05 percent.

(3) Nitrofurazone: 0.0112 percent.

(d) It is intended for use solely in the prevention of outbreaks of histomoniasis ("blackhead") in turkey flocks, its labeling bears adequate directions and warnings for such use, and it contains one, but only one, of the following ingredients in a quantity, by weight of feed, as hereinafter indicated:

(1) 2-amino-5-nitrothiazole: 0.05 percent.

(2) 4-nitrophenylarsonic acid: 0.025 percent.

(e) It is intended for use solely in the control of outbreaks of histomoniasis ("blackhead") in turkey flocks, its labeling bears adequate directions and warnings for such use, and it contains 2-amino-5-nitrothiazole in a quantity, by weight of feed, of 0.10 percent.

(f) It is intended for use solely as an anthelmintic for poultry or swine, its labeling bears adequate directions and warnings for such use, and it contains one, but only one, of the following ingredients in a quantity, by weight of feed, as hereinafter indicated:

(1) Di-*n*-butyl tin dilaurate 0.07 percent, nicotine 0.03 percent, and phenothiazine 0.29 percent.

(2) Nicotine 0.067 percent, phenothiazine 0.60 percent, and 2,2'dichloro-5,5'-dihydroxy-diphenylmethane 0.28 percent.

(3) Phenothiazine, not less than 0.3 percent and not more than 1.0 percent and nicotine, not less than 0.03 percent and not more than 0.07 percent.

(4) Phenothiazine, not less than 0.3 percent and not more than 1.0 percent.

(5) Nicotine, not less than 0.03 percent and not more than 0.07 percent.

(6) Sodium fluoride 0.3 percent and sodium sulfate 2.0 percent.

(g) It is intended for use solely in the prevention of chronic respiratory disease in poultry (air-sac infection) swine enteritis and/or calf scours, its labeling bears adequate directions and warnings for such use, and it contains not less than 50 grams of aureomycin per ton of feed.

(h) It is intended for use solely as a treatment for chronic respiratory disease in poultry (air-sac infection) and/or swine enteritis, its labeling bears adequate directions and warnings for such use, and it contains not less than 100 grams of aureomycin per ton of feed. If it is intended for use solely in poultry it may contain 0.1 percent of para-aminobenzoic acid or the sodium or potassium salt of para-aminobenzoic acid.

4. Section 146.216 *Aureomycin therapeutic formula for animal feed* * * * is hereby revoked.

(Sec. 701, 52 Stat. 1055; 21 U. S. C. 371)

This order, which provides for exemption from certification, under certain conditions, of antibiotic drugs for use in animal feed and for exemption from certification of animal feed containing antibiotic drugs, if they are intended solely for use as an animal feeding supplement or for use in the prevention or treatment of certain disease conditions of animals, with or without certain specified chemical ingredients, provided the labeling bears adequate directions and warnings for such use, shall become effective upon publication in the FEDERAL REGISTER, since both the public and the affected industry will benefit by the earliest effective date, and I so find.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industry, and since it would be against public interest to delay providing for the amendments set forth above.

Dated: April 16, 1953.

[SEAL] OVETA CULP HOBBY, *Secretary.*

[F. R. Doc. 53-3520; Filed, Apr. 21, 1953; 8:50 a. m.]

PART 141—TESTS AND METHODS OF ASSAY FOR ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

PART 146—CERTIFICATION OF BATCHES OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

MISCELLANEOUS AMENDMENTS

By virtue of the authority vested in the Secretary by the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 52 Stat. 1040, 1055, as amended by 59 Stat. 463, 61 Stat. 11, 63 Stat. 409; 21 U. S. C. 357; 61 Stat. 18) the regulations for tests and methods of assay for antibiotic and antibiotic-containing drugs (21 CFR, 1951 Supp. 141) and certification of batches of antibiotic and antibiotic-containing drugs (21 CFR, 1951 Supp. 146; 17 F R. 1419, 8036, 11738) are amended as set forth below:

1. In § 141.101 *Streptomycin sulfate* * * * *potency,* the last sentence of subparagraph (3) of paragraph (j) *Turbidimetric assay* is changed to read: "After incubation, add 0.5 milliliter of formalin diluted 1:3 to each tube and read the light transmission in a photo-electric colorimeter, using a broad band filter having a wave length of 5300 Angstrom units."

2. Section 141.111 is amended to read as follows:

§ 141.111 *Streptomycin sulfate solution, dihydrostreptomycin sulfate solution, crystalline dihydrostreptomycin sulfate solution.* (a) If it is streptomycin sulfate solution, proceed as directed in §§ 141.101, 141.102, 141.104, 141.105, and 141.106 (b) and for the toxicity test proceed as directed in § 141.4, using as a test dose 0.5 milliliter of a solution containing 1.5 milligrams per milliliter.

(b) If it is dihydrostreptomycin sulfate solution or crystalline dihydrostreptomycin sulfate solution, proceed as directed in § 141.108, except in lieu of the directions in § 141.108 (b) determine the streptomycin content as follows:

(1) *Preparation of standard.* Prepare a standard aqueous solution of the Food and Drug Administration streptomycin working standard containing 0.25 milligram of streptomycin base per milliliter. Transfer 1.0, 1.5, and 2.0 milliliter aliquots to test tubes (approximately 16 mm. x 150 mm.) Add 1.0, 0.5, and 0 milliliter of distilled water to give a 2.0-milliliter volume.

(2) *Preparation of sample.* Dilute 1.0 milliliter of the dihydrostreptomycin sulfate solution to be tested (containing 250 to 500 milligrams of dihydrostreptomycin) to 25.0 milliliters in a volumetric flask. Transfer 2.0 milliliters to a test tube.

(3) *Blank.* Use 2.0 milliliters of distilled water.

(4) *Procedure.* To each tube containing 2.0 milliliters, add, in turn, 8.0 milliliters of 0.1N NaOH (freshly prepared from 1N NaOH), mix thoroughly, and immediately determine the optical density at 325 mμ in a suitable spectrophotometer. Set the spectrophotometer at 100-percent light transmission for the blank similarly treated. Return the solution to the test tube, heat in a boiling water bath for 10 minutes, cool in an ice bath for 3 minutes, and allow to come to room temperature. Determine the optical density at 325 mμ. The difference in reading before and after heating is the optical density of the aliquot. Prepare a standard curve. The concentration of streptomycin in the sample solution obtained directly from the standard curve times 1,250, divided by the number of milligrams of dihydrostreptomycin in the original dihydrostreptomycin solution, equals the percent of streptomycin.

3. The headnote and paragraphs (a), (b) and (f) of § 141.307 are amended to read:

§ 141.307 - *Chloramphenicol solution, chloramphenicol for aqueous injection*—(a) *Potency*—(1) *Chloramphenicol solution.* Proceed as directed in § 141.301 (a) except subparagraphs (8) and (9) of that paragraph, and in lieu of the directions in subparagraph (4) of that paragraph dilute the sample in sufficient 1.0-percent phosphate buffer pH 6.0 to make an appropriate stock solution.

(2) *Chloramphenicol for aqueous injection.* Proceed as directed in § 141.301 (a) except subparagraph (9) of that paragraph, and in lieu of the directions in subparagraph (4) of that paragraph prepare the sample as follows: Add the amount of water indicated in the labeling of the drug to the vial, and shake well. Remove 1.0 milliliter of the suspension, transfer to a 50-milliliter volumetric flask, and make to volume with absolute alcohol. Quickly remove 1.0 milliliter and make to the proper estimated dilution in 1.0-percent phosphate buffer pH 6.0. In case the spectrophotometric method is used, proceed as follows: Add to the vial the amount of water indicated in the labeling of the drug and shake vigorously until a uniform suspension is obtained. Transfer an aliquot of this suspension, equivalent to 1.0 gram of chloramphenicol, to a 1,000-milliliter glass-stoppered volumetric flask, add about 500 milliliters of distilled water, and heat on a steam bath until solution of the chloramphenicol is complete (but no longer than 10 minutes) Cool to room temperature and dilute to exactly 1,000 milliliters with distilled water. Mix thoroughly, and transfer exactly 5 milliliters of this solution to a 250-milliliter glass-stoppered volumetric flask. Dilute to exactly 250 milliliters with distilled water and mix thoroughly. Measure the absorbency of this solution on a suitable spectrophotometer at 278 mμ against a blank of distilled water. The

$$\frac{\text{optical density at 278 m}\mu}{298} \times 500 = \text{grams}$$

of chloramphenicol in the sample tested. (From this value calculate the quantity

of chloramphenicol in the immediate container.)

Its potency is satisfactory when assayed by the methods described in this paragraph if it contains not less than 85 percent of the number of grams of chloramphenicol it is represented to contain.

(b) *Sterility.* If it is the solution, proceed as directed in § 141.102. If it is the dry mixture of the drug, dissolve the entire contents of each vial to be tested in a sterile 40-percent solution (v/v) of N,N,dimethylacetamide, using 10 milliliters of the diluent for each 1.0 gram, and proceed as directed in § 141.2, except that neither penicillinase nor the control tube is used in the test for bacteria.

* * * * *

(f) *pH.* Proceed as directed in § 141.5 (b) using the undiluted drug in the case of the solution, and if it is the dry mixture of the drug use a suspension prepared as directed in its labeling.

(Sec. 701, 52 Stat. 1055; 21 U. S. C. 371)

4. In § 146.110 *Streptomycin otic with antifungal agent* * * * paragraph (a) *Standards of identity* * * * is amended by changing the first sentence to read: "Streptomycin otic with antifungal agent or dihydrostreptomycin otic with antifungal agent is streptomycin or dihydrostreptomycin and one or more suitable antifungal agents and buffer substances, with or without one or more suitable and harmless preservatives, dissolved or suspended in a suitable and harmless vehicle."

5. Section 146.204 *Aureomycin capsules* * * * is amended as follows:

a. Paragraph (a) *Standards of identity* * * * is amended by inserting in the first sentence, between the words "aureomycin," and "with" the words "with or without one or more suitable sulfonamides and"

b. In paragraph (c) *Labeling,* subparagraph (1) (iii) is amended by deleting the comma and inserting between the words "preservative" and "the" the words "and/or one or more sulfonamides,"

c. Paragraph (c) *Labeling* is further amended by renumbering subparagraph (3) as (4) and inserting the following new subparagraph (3)

(3) On the label and labeling, if it contains one or more sulfonamides, after the name "aureomycin capsules" wherever it appears, the words "with sulfonamide(s) " in juxtaposition with such name.

d. Paragraph (d) *Requests for certification* * * * subparagraph (3) (iii) is amended by changing the words "buffer substance, diluent, binder, lubricant, coloring, and flavoring" to read "other ingredient"

6a. The headnote and paragraph (a) of § 146.307 are amended to read as follows:

§ 146.307 *Chloramphenicol solution; chloramphenicol for aqueous injection*— (a) *Standards of identity, strength, quality, and purity.* Chloramphenicol solution is chloramphenicol, with or without one or more suitable and harmless buffer substances, dissolved in one or more suitable and harmless solvents. Chloramphenicol for aqueous injection is a dry mixture of chloramphenicol and one or more suitable and harmless suspending or dispersing agents, buffer substances, and preservatives. It is so purified that:

(1) If it is the solution of the drug, its potency is 250 milligrams per milliliter.

(2) It is sterile.

(3) It is nontoxic.

(4) It is nonpyrogenic.

(5) It contains no histamine nor histamine-like substances.

(6) If it is chloramphenicol solution, its pH is not less than 4.7 and not more than 5.0. If it is the dry mixture of the drug, the pH of a suspension prepared as directed in its labeling is not less than 4.5 and not more than 7.5.

The chloramphenicol used conforms to the requirements of § 146.301 (a) Each other ingredient used, if its name is recognized in the U. S. P. or N. F., conforms to the standards prescribed therefor by such official compendium.

b. In § 146.307, paragraph (b) *Packaging* is amended by changing the last sentence to read: "In case it is packaged for dispensing and it is the solution of the drug, it shall be in hermetically sealed, colorless, transparent glass ampuls, each of which shall contain 2.0 milliliters. If it is packaged for dispensing and it is the dry mixture of the drug, it shall be in colorless, transparent glass containers, closed by a substance through which a hypodermic needle may be introduced and withdrawn without removing the closure or destroying its effectiveness, and each such container shall contain 1.0 gram or 2.0 grams of chloramphenicol."

c. Section 146.307 (c) (1) (ii) and (iv) are amended to read as indicated below, and paragraph (c) (1) is further amended by adding a new subdivision, designated (v)

(c) *Labeling.* * * *

(1) * * *

(ii) If it is the solution of the drug, the number of milligrams of chloramphenicol in each milliliter of the batch; and if it is the dry mixture of the drug, the number of grams of chloramphenicol in each immediate container.

* * * * *

(iv) If it is the solution of the drug, the name of each solvent used; and if it is the dry mixture of the drug, the name and quantity of each preservative used.

(v) If it is the dry mixture of the drug, the statement "For intramuscular use only."

* * * * *

d. In § 146.307, paragraph (d) *Request for certification* * * *, subparagraph (1) is amended by deleting the word "dissolved"

(Sec. 701, 52 Stat. 1055; 21 U. S. C. 371)

This order, which provides for a change in the turbidimetric assay procedure for streptomycin sulfate; a change in the safety test for streptomycin sulfate solution; a change in the method for determining the streptomycin content of dihydrostreptomycin sulfate solution; tests and methods of assay and certification of chloramphenicol for aqueous injection; the optional use of a preservative for streptomycin otic with antifungal agent; and certification of aureomycin capsules that contain one or more suitable sulfonamides, shall become effective upon publication in the FEDERAL REGISTER, since both the public and the affected industry will benefit by the earliest effective date, and I so find.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industry and since it would be against public interest to delay providing for the amendments set forth above.

Dated: April 16, 1953.

[SEAL] OVETA CULP HOBBY, *Secretary.*

[F. R. Doc. 53-3521; Filed, Apr. 21, 1953; 8:50 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue, Department of the Treasury

Subchapter C—Miscellaneous Excise Taxes

[T. D. 6007; Regs. 43]

PART 101—TAXES ON ADMISSIONS, DUES, AND INITIATION FEES

MISCELLANEOUS AMENDMENTS

On November 15, 1952, notice of proposed rule making was published in the FEDERAL REGISTER (17 F. R. 10469), in order to conform Regulations 43 (1941 edition) (26 CFR Part 101) relating to the taxes on admissions, dues, and initiation fees under the provisions of the Internal Revenue Code, to Pub. Law 124 (82d Cong., 1st Session) approved August 24, 1951, and to sections 401, 402, 403, and 404 of the Revenue Act of 1951 (Pub. Law 183, 82d Cong., 1st Session) approved October 20, 1951. After consideration of all such relevant matter as was presented by interested persons regarding the proposal the amendments to Regulations 43 set forth below are hereby adopted.

PARAGRAPH 1. The words appearing in parentheses in the heading beginning "Part 101" immediately preceding "Subpart A—Introductory" as amended by Treasury Decision 5562, approved May 16, 1947, are further amended to read as follows: "(Chapter 10 of the Internal Revenue Code as amended by the Revenue Acts of 1941, 1942, and 1951, and Chapter 9A of the Internal Revenue Code as amended by the Revenue Act of 1943, the Public Debt Act of 1944, and the Excise Tax Act of 1947) "

PAR. 2. The first sentence of the first paragraph of § 101.0, as amended by Treasury Decision 5562, is further amended by striking out the words "and section 622, Title VI, of the Revenue Act of 1942," and inserting in lieu thereof the words "section 622, Title VI, of the Revenue Act of 1942, and the Revenue Act of 1951"

PAR. 3. Immediately preceding § 101.1, there is inserted the following:

SEC. 403. EFFECTIVE DATE OF AMENDMENTS RELATING TO ADMISSIONS (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

The amendments made by sections 401 and 402 shall be applicable with respect to amounts paid on or after the first day of the first month which begins more than ten days after the date of the enactment of this act for admissions on or after such date.

SEC. 404. TAX ON CABARETS, ROOF GARDENS, ETC. (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

* * * * *

(b) *Effective date.* The amendment made by subsection (a) shall be applicable only with respect to periods after 10 antemeridian on the first day of the first month which begins more than ten days after the date of the enactment of this act.

PAR. 4. Section 101.1, as amended by Treasury Decision 5562, is further amended by adding at the end thereof the following new paragraph (d)

(d) The Revenue Act of 1951 made further amendments to the Code effective November 1, 1951. In the case of the cabaret tax, the amendment became effective at 10 a. m. on November 1, 1951.

PAR. 5. Immediately preceding § 101.2 there is inserted the following:

PUBLIC LAW 124 (82D CONGRESS, 1ST SESSION), APPROVED AUGUST 24, 1951

* * * That section 1700 (a) (1) of the Internal Revenue Code is hereby amended by adding at the end thereof the following new sentence: "No tax shall be imposed in the case of admission free of charge of a member of the Armed Forces of the United States when in uniform."

SEC. 2. The amendment made by this act shall be applicable to admissions on and after the first day of the first month which begins more than ten days after the date of the enactment of this act.

SEC. 401. REMOVAL OF TAX ON FREE ADMISSIONS (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

Section 1700 (a) (1) (relating to tax on single or season tickets) is hereby amended by striking out the second, fourth, and fifth sentences thereof.

PAR. 6. Section 101.5, as amended by Treasury Decision 5682, approved December 30, 1948, is further amended to read as follows:

§ 101.5 *Free and reduced rate admissions*—(a) *Beginning November 1, 1951.* The tax imposed by section 1700 (a) applies to the amount actually paid for admission, and no tax is due in the case of a person admitted free of charge. Further, a child under 12 years of age admitted for less than 10 cents is not liable for tax.

(b) *Prior to November 1, 1951*—(1) *General rule.* (i) A person admitted free or at a reduced rate to any place at a time when and under circumstances under which an admission charge is made to other persons, is liable to tax (except as provided in subparagraph (2) of this paragraph) in an amount equivalent to the tax on the amount paid by such other persons for the same or similar accommodations.

(ii) Where persons in a certain group or class, such as students 12 years of age or over, women, or members of a particular organization, are admitted at a price less than the established price of admission to the public generally, they are liable for tax based on the established price of admission to other persons for the same or similar accommodations. Women admitted free or at reduced rates to dances or any other place are liable for tax based on the established price of admission to other persons.

(iii) If tickets or cards of admission are issued the tax should be collected at the time of the issuance of such tickets or cards, while if no tickets or cards are used tax should be collected when the persons are admitted.

(2) *Exceptions.* (i) A bona fide employee of the management of the theater or other place, a municipal officer on official business, or a child under 12 years of age, is not liable to tax if admitted free but if admitted at a reduced rate is liable to tax on the reduced price, except that a child under 12 years of age admitted for less than 10 cents is not liable for tax. Bona fide employees are (*a*) those persons, including directors and officers, regularly employed by the proprietor of the place or attraction or regularly engaged in work or business transacted there, whether their duties require admission to the place or not, and whether on duty at the time admitted or not; and (*b*) other persons whose admission to the place is required for the performance of some duty to, or work for, the proprietor.

(ii) Persons in the military or naval forces of the United States when in uniform, members of the military or naval forces of any of the United Nations when in uniform, and members of the Civilian Conservation Corps when in uniform are not liable for tax if admitted free, and if admitted at a reduced rate are liable for tax on the reduced price. Except as provided in subdivisions (iii) or (iv) of this subparagraph, these exemptions do not apply to admissions after December 31, 1947.

(iii) Effective August 1, 1948, the tax does not apply to the admission free of charge of a hospitalized member of the military, naval, or air forces of the United States or of a person hospitalized as a veteran by the Federal Government in a Federal, State, municipal, private or other hospital or institution, provided such member or veteran is not on leave or furlough. Where it is necessary for an attendant to accompany such member or veteran so admitted free of charge, the tax does not apply to the admission of the attendant if he is also admitted free of charge. Where the exemption is claimed on behalf of a hospitalized member or veteran properly entitled thereto, who is singly admitted, the right to the exemption shall be evidenced by a statement, personally signed, of an administrative officer of the hospital or institution, identifying by name such member or veteran (and attendant, if any) and certifying that the member or veteran (*a*) is a hospitalized member of the military, naval, or air forces of the United States or a veteran hospitalized by the Federal Government, and (*b*) is not on leave or furlough. Where the exemption is claimed on behalf of hospitalized members or veterans who are collectively admitted the statement need not identify the members or veterans individually but shall specify the number of such members or veterans (and attendants, if any) and certify that the members or veterans (*1*) are hospitalized members of the military, naval or air forces of the United States or are veterans hospitalized by the Federal Government and (*2*) are not on leave or furlough. In either case the statement evidencing the right to the exemption shall be taken up by the proprietor of the place, and retained as part of his records. (See § 101.32.)

(iv) Effective October 1, 1951, to and including October 31, 1951, the tax does not apply to the admission free of charge of a member of the Armed Forces of the United States when in uniform. This exemption applies to free admissions only.

(v) Newspaper reporters, photographers, telegraphers, radio announcers, and persons of similar vocation who are admitted free to any place for the performance of special duties in connection with an event and whose special duties are the sole reason for their presence and free admission, are not liable for any tax on admissions. Free admissions, including free admissions to spoken plays, etc., granted to such persons who are not admitted solely for the purpose of performing their special duties in connection with the event are subject to tax equivalent to the tax on the admission charge paid by other persons for the same or similar accommodations.

PAR. 7. Immediately preceding § 101.13 there is inserted the following:

SEC. 404. TAX ON CABARETS, ROOF GARDENS, ETC. (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

(a) *Ballrooms and dance halls.* Section 1700 (e) (1) (relating to tax on cabarets, roof gardens, etc.) is hereby amended by inserting after the second sentence thereof the following new sentence: "In no case shall such term include any ballroom, dance hall, or other similar place where the serving or selling of food, refreshment, or merchandise is merely incidental, unless such place would be considered, without the application of the preceding sentence, as a 'roof garden, cabaret, or other similar place'."

* * * * *

PAR. 8. Section 101.14, as amended by Treasury Decision 5385, approved June 30, 1944, is further amended as follows:

(A) By amending the paragraph (a) thereof to read as follows:

(a) (1) The term "roof garden, cabaret, or other similar place" includes any room in any hotel, restaurant, hall, or other public place where music and dancing privileges or any other entertainment, except instrumental or mechanical music alone, are afforded the patrons in connection with the serving or selling of food, refreshment, or merchandise, except that after 10 a. m. November 1, 1951, such term does not include any ballroom, dance hall, or other similar place where the serving or selling of food, refreshment, or merchandise is merely incidental, unless such place would otherwise be considered as a roof garden, cabaret, or other similar place. The exception with respect to ballrooms,

dance halls, or other similar places, applies only to such of those establishments which are operated primarily to furnish music and dancing privileges and where the serving or selling of food, refreshment, or merchandise constitutes in fact an incidental or subsidiary service in relation to the furnishing of music and dancing privileges.

(2) A public performance furnished at a roof garden, cabaret, or other similar place shall be regarded as being furnished for profit for purposes of this section even though the charge made for admission, refreshment, service, or merchandise is not increased by reason of the furnishing of such performance.

(B) Example (1) following paragraph (c) thereof is deleted, examples (2) and (3) are renumbered (1) and (2) respectively, and the following is inserted as example (3)

Example (3). A dance hall is operated from 9:00 p. m. until midnight every Friday and Saturday night. The charge for admission varies according to the character of the entertainment furnished, so that when a name band appears, the admission charge is higher than when the music is furnished by a local band. Refreshments consisting of sandwiches, potato chips, soft drinks and coffee are served at tables, and the number of patrons who can be seated at any time is substantially less than the number of persons who can be accommodated for dancing. The serving of refreshments is limited to the period when the dance hall is open. Patrons are not required to purchase refreshments. In this case, the dance hall is operated primarily for the purpose of furnishing music and dancing privileges and the sale of refreshments constitutes an incidental service. Amounts paid by patrons of the dance hall are not subject to the cabaret tax; however, the charge for admission is subject to the admissions tax.

PAR. 9. Immediately preceding § 101.15, there is inserted the following:

SEC. 402. EXEMPTIONS FROM ADMISSIONS TAX (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

(a) *Reinstatement of prewar exemptions.* Notwithstanding section 541 (b) of the Revenue Act of 1941, the provisions of section 1701 (relating to exemptions from the admissions tax) shall apply to amounts paid on or after the effective date specified in section 403 of this Act for admissions on or after such date.

(b) *Amendment of section 1701 (a) and (b).* Subsections (a) and (b) of section 1701 (relating to exemptions from admissions tax) are hereby amended to read as follows:

(a) *Certain religious, educational, or charitable entertainments, etc.*—(1) *In general.* Except as provided in paragraph (2), any admissions all the proceeds of which inure—

(A) Exclusively to the benefit of—

(i) A church or a convention or association of churches;

(ii) An educational institution which is exempt under section 101 (6) or which is an educational institution of a government or political subdivision thereof, if such organization normally maintains a regular faculty and curriculum and normally has a regularly organized body of pupils or students in attendance at the place where its educational activities are regularly carried on;

(iii) A corporation or any community chest, fund, or foundation organized and operated exclusively for charitable purposes, exempt under section 101 (6), if such corporation or organization is supported, in whole or in part, by funds contributed by the United States or any State or political subdivision thereof, or is primarily supported by contributions from the general public;

(iv) A society or organization conducted for the sole purpose of maintaining symphony orchestras or operas and receiving substantial support from voluntary contributions;

(v) An organization (organized prior to October 1, 1951) which is exempt under section 101 (6) and which is operated for the purpose of conducting an annual chautauqua program of educational, cultural, and religious activities at a permanent location—

if no part of the net earnings thereof inures to the benefit of any private stockholder or individual;

(B) Exclusively to the benefit of National Guard organizations, Reserve officers' associations or organizations, posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units, or societies are organized in the United States or any of its possessions, and if no part of their net earnings inures to the benefit of any private stockholder or individual; or

(C) Exclusively to the benefit of a police or fire department of any city, town, village, or any municipality or exclusively to a retirement, pension, or disability fund for the sole benefit of members of such a police or fire department or to a fund for the heirs of such members.

(2) *Nonexempt admissions.* The exemption provided under paragraph (1) shall not apply in the case of admissions to (A) any athletic game or exhibition unless the proceeds inure exclusively to the benefit of an elementary or secondary school or unless in the case of an athletic game between two elementary or secondary schools, the entire gross proceeds from such game inure to the benefit of a hospital for crippled children, (B) wrestling matches, prize fights, or boxing, sparring, or other pugilistic matches or exhibitions, (C) carnivals, rodeos, or circuses in which any professional performer or operator participates for compensation, or (D) any motion picture exhibition.

(b) *Agricultural fairs.* Any admissions to agricultural fairs if no part of the net earnings thereof inures to the benefit of any stockholders or members of the association conducting the same—if the proceeds therefrom are used exclusively for the improvement, maintenance, and operation of such agricultural fairs; or

(c) *Admissions to municipal swimming pools, etc.* Section 1701 is hereby amended by striking out the period at the end of subsection (c) and inserting in lieu thereof "; or" and by adding at the end of such section the following new subsections:

(d) *Municipal swimming pools, etc.* Any admissions to swimming pools, bathing beaches, skating rinks, or other places providing facilities for physical exercise, operated by any State or political subdivision thereof or by the United States or any agency or instrumentality thereof—if the proceeds therefrom inure exclusively to the benefit of the State, political subdivision, United States, agency, or instrumentality. For the purposes of this subsection, the term "State" includes Alaska, Hawaii, and the District of Columbia; or

(e) (1) *Home and garden tours.* Any admission to a home or garden which is temporarily opened to the general public as part of a program conducted by a society or organization to permit the inspection of historical homes and gardens—if no part of the net earnings thereof inures to the benefit of any private stockholder or individual.

(2) *Historic sites.* Any admissions to historic sites, houses, and shrines, and museums conducted in connection therewith, maintained and operated by a society or organization devoted to the preservation and maintenance of such historic sites, houses, shrines, and museums—if no part of the net earnings thereof inures to the benefit of any private stockholder or individual.

SEC. 1701. INTERNAL REVENUE CODE.

* * * * *

(c) *Certain concerts.* Any admissions to concerts conducted by a civic or community membership association if no part of the net earnings thereof inures to the benefit of any stockholders or members of such association.

* * * * *

PAR. 10. Section 101.15, as amended by Treasury Decision 5682, and § 101.16, as amended by Treasury Decision 5170, approved September 25, 1942, are stricken and the following is inserted in lieu thereof:

§ 101.15 *Exemptions from tax*—(a) *Scope of exemption, effective November 1, 1951.* (1) The admissions taxes imposed by section 1700 are of two classes: (i) Taxes on admissions per se to be paid by the person paying for admission, and (ii) taxes on charges in excess of the regular or established price of admission, which taxes are to be paid by the person selling or disposing of tickets or cards of admission at excess prices. Section 1701 (a) confers exemption, under certain conditions and limitations, from taxes of one or both classes. Admissions, or excess charges, are not exempt merely because the proceeds are to be used for a religious, educational or charitable purpose. The primary condition is that all the proceeds of the admissions or excess charges, as the case may be, inure to the benefit of the organizations enumerated in section 1701 (a) and the event is not of a type described in section 1701 (a) (2) (See paragraph (c) of this section.) It may happen that the proceeds of admission charges inure to the benefit of exempt organizations and the proceeds of excess charges go to the benefit of nonexempt organizations or persons. In that event, the tax exemption applies only to the admission charges. Conversely, the situation may be that the proceeds of the excess charges, but not of the admission charges, inure to the benefit of exempt organizations. In that situation, the excess charges only are exempt from tax.

(2) The term "all the proceeds" means all the net proceeds of the regular admission charges or excess charges, as the case may be, after payment of actual and reasonable expenses incurred in presenting the event. Whether certain expenses are reasonable is to be determined on the basis of all the facts in the matter. If the expenses are in excess of what is reasonable and necessary under the circumstances, all the proceeds would not be deemed to inure exclusively to the benefit of the exempt organization. In any case where the amount to be received by a nonexempt person or organization for talent, services, or otherwise, is based on a percentage of the net or gross proceeds, the organization claiming exemption shall, before exemption may be allowed, establish that the maximum amount to be received on the percentage basis is a reasonable sum and not more than would ordinarily be received on a flat-rate basis for the same or similar talent or services, and that the contract

actually operates to the benefit of the exempt organization.

(b) *Organizations exempt from admissions tax*—(1) *General.* (i) Under the provisions of section 1701 (a) (1) (A) exemption is granted with respect to admissions, other than those specified in section 1701 (a) (2) (see paragraph (c) of this section) all the proceeds of which inure to the benefit of certain religious, educational, charitable, or other organizations operating on a nonprofit basis. The mere fact that an organization is so organized or operated does not afford a basis for exemption. To be entitled to such exemption the organization must comply with all of the statutory requirements. There is no requirement, expressed or implied, that an institution, society, or organization, to be included within these exemption provisions, must be organized or operating in the United States.

(ii) For an organization to be considered a religious, educational, or charitable institution, or society or organization of the kind contemplated by section 1701 (a) it must have a definite organization, with officers, directors, or trustees, and the usual essential features (incorporation not being essential) of an association of its class. The organization must also have a purpose which as put into practice is religious, educational, charitable, or of the nature specified by the statute. Furthermore, no part of the net earnings of such organization shall inure to the benefit of any private stockholder or individual.

(iii) Other requirements which must be met by organizations that may be exempt from the admissions tax are set forth in subparagraphs (2) through (8) of this paragraph.

(2) *Churches or conventions or associations of churches.* (i) Admissions, or excess charges, all the proceeds of which (after payment of reasonable expenses) inure exclusively to the benefit of a church or a convention or association of churches are exempt from tax. (For exceptions to this exemption, see paragraph (c) of this section.)

(ii) The term "convention or association of churches" includes a union of churches of the same denomination organized on a regional or other basis, or a union of churches of different denominations which meet and act in concert to further a particular religious purpose.

(iii) Missions and missionary societies, Sunday school classes, choir groups and other associations forming a functional part of the organization of a church fall within the exemption.

(3) *Educational institutions.* (i) Admissions, or excess charges, all the proceeds of which (after payment of reasonable expenses) inure exclusively to the benefit of an educational institution are exempt from the tax, provided (*a*) the educational institution is exempt under section 101 (6) or is an educational institution of a government or political subdivision thereof, (*b*) the institution normally maintains a regular faculty and curriculum and normally has a regularly organized body of pupils or students in attendance at the place where its educational activities are regularly carried on, and (*c*) no part of the net earnings thereof inures to the benefit of any private stockholder or individual. (For exceptions to this exemption, see paragraph (c) of this section.) Generally, this exemption applies in the case of institutions engaged in the presentation of formal instruction, such as elementary and high schools, colleges and universities, through the medium of a regular faculty and curriculum with a regularly organized body of pupils or students in attendance. However, any educational institution exempt from income tax under section 101 (6) such as a museum, art gallery, etc., may also qualify under section 1701 (a) for an exemption from the tax on admissions but only if, as a substantial part of its activities, such institution maintains a regular faculty, curriculum, and student body.

(ii) Any organization sponsored and administered by an educational institution as a part of its educational program, and in which membership is open to any of the members thereof, is also entitled to exemption. Examples of such organizations are student governing bodies, athletic associations, dramatic clubs, language clubs, science clubs, and similar groups.

(4) *Charitable organizations.* (i) Admissions, or excess charges, all the proceeds of which (after payment of reasonable expenses) inure exclusively to the benefit of a corporation or any community chest, fund, or foundation organized and operated exclusively for charitable purposes, exempt under section 101 (6) are exempt from tax provided such corporation or organization is supported, in whole or in part, by funds contributed by the United States or any State or political subdivision thereof, or is primarily supported by contributions from the general public, and if no part of the net earnings thereof inures to the benefit of any private stockholder or individual. (For exceptions to this exemption, see paragraph (c) of this section.)

(ii) Charitable organizations supported by funds contributed by the United States or any State or political subdivision thereof are entitled to exemption regardless of the extent of the support received and of the manner in which the funds are contributed, i. e., whether as payment for specific services rendered by the organization, by the allotment of any sum, or whatever other means may be used.

(iii) However, charitable organizations supported by contributions received from the general public, in order to show that they are primarily supported in such manner, must establish that more than 50 percent of all the income received by the organization, is derived from that source. Amounts paid for admission are not regarded as "contributions" for purposes of this exemption.

(5) *Symphony orchestra and opera organizations.* (i) Admissions, or excess charges, all the proceeds of which (after payment of reasonable expenses) inure exclusively to the benefit of a society or organization conducted for the sole purpose of maintaining symphony orchestras or operas and receiving substantial support from voluntary contributions, are exempt from tax, if no part of the net earnings thereof inures to the benefit of any private stockholder or individual. (For exceptions to this exemption, see paragraph (c) of this section.)

(ii) The name by which an organized group of musicians is called is not the test of whether or not such group is a symphony orchestra. It must have a personnel of sufficient size and ability to render symphonies capably and such symphonies must form a major part of its regular programs. Bands and ordinary orchestras are not included in the exemption.

(6) *Chautauquas and assemblies.* (i) Admissions, or excess charges, all the proceeds of which (after payment of reasonable expenses) inure exclusively to the benefit of a society or organization organized prior to October 1, 1951, exempt from income tax under section 101 (6) and operated for the purpose of conducting an annual chautauqua program of educational, cultural, and religious activities at a permanent location are exempt from tax, if no part of the net earnings thereof inures to the benefit of any private stockholder or individual. (For exceptions to this exemption, see paragraph (c) of this section.)

(ii) The term "chautauqua program" means an operation designed to provide a series of meetings or assemblies of persons who are brought together for a common purpose, wherein a program of educational, cultural, and religious activities is carried on and during which courses of instruction in either educational, cultural, or religious activities are actually participated in by persons present for the program.

(7) *National Guard and Reserve officers' associations or organizations of war veterans.* Admissions, or excess charges, all the proceeds of which (after payment of reasonable expenses) inure exclusively to the benefit of National Guard organizations, Reserve officers' associations or organizations, posts or organizations of war veterans, or auxiliary units or societies of any of the foregoing, are exempt from tax, if organized in the United States or any of its possessions and if no part of their net earnings inures to the benefit of any private stockholder or individual. (For exceptions to this exemption, see paragraph (c) of this section.)

(8) *Police or fire department.* Admissions, or excess charges, all the proceeds of which (after payment of reasonable expenses) inure exclusively to the benefit of a police or fire department (including a volunteer fire department) of any city, town, village, or municipality or exclusively to a retirement, pension, or disability fund for the sole benefit of members of such a police or fire department or to a fund for the heirs of such members, are exempt from tax. (For exceptions to this exemption, see paragraph (c) of this section.)

(c) *Nonexempt admissions.* The exemptions provided by section 1701 (a) (1) in the case of events held for the benefit of the organizations specified therein (paragraph (b) (2) through (8) of this section) do not apply with respect to admissions to:

(1) Any athletic game or exhibition unless the proceeds inure exclusively to the benefit of an elementary or secondary school; or unless in the case of an athletic game between two elementary or secondary schools, the entire gross proceeds from such game inure to the benefit of a hospital for crippled children. (See paragraph (d) (6) of this section.)

(2) Wrestling matches, prize fights, or boxing, sparring, or other pugilistic matches or exhibitions, irrespective of the status of the participants, the character of the organization sponsoring the event, or to whom the admission proceeds are payable.

(3) Carnivals, rodeos, or circuses in which any professional performer or operator participates for compensation. It is immaterial whether the professional performer or operator is paid for his services from the admission proceeds or from some other source.

(4) Any motion picture exhibition.

(d) *Admissions to specific events exempt from tax*—(1) *Agricultural fairs.* (i) Admissions to agricultural fairs the proceeds of which are used exclusively for the improvement, maintenance, and operation of such fairs are exempt from tax, if no part of the net earnings thereof inures to the benefit of any stockholder or member of the association conducting the fair.

(ii) The term "agricultural fairs" includes, in general, all exhibitions of farm produce, livestock, poultry, flowers, or the like held for the promotion or advancement of agriculture (including horticulture) It includes any exhibition of animals of a species whose chief utility is in connection with agriculture, held by an association organized to improve that species of animal and to disseminate knowledge concerning its breeding.

(iii) The exemption afforded with respect to agricultural fairs is limited to the general admission charge to the fair grounds or to any additional payment for seating accommodations offered in connection with any free event held in connection with the fair. The exemption does not extend to admissions to any exhibit, entertainment, or other event for which a separate additional admission charge is made.

(iv) The exemption of subdivision (iii) of this subparagraph applies only to admissions to agricultural fairs and does not extend to admissions to events which may be conducted at the fair grounds by the fair association when a fair is not in progress, even though the proceeds from such admissions may inure exclusively to the benefit of the fair association.

(*a*) The following are examples of events regarded as agricultural fairs within the meaning of the statute:

(*1*) An exhibition of articles of garden produce to stimulate a "garden movement" in the community.

(2) A poultry show held by a poultry fanciers' association for the purpose of teaching poultry farmers how to secure the greatest possible egg production.

(3) A horse fair held by a society organized to improve the quality of farm animals, the animals exhibited being chiefly of that class.

(*b*) Examples of events which do not qualify as agricultural fairs include the following:

(*1*) A dog show presented by a dog fanciers' association.

(2) A horse show held primarily for the purpose of exhibiting fancy riding and driving horses.

(*3*) A food show presented by a retail grocers' association for the purpose of exhibiting raw food products, the processes of manufacture, the finished food products, and the food prepared for the table.

(2) *Concerts.* No tax is due with respect to payments for admission to concerts conducted by a civic or community association operating under a constitution, bylaws, or other rules or regulations providing for a definite class of membership, if no part of the net earnings inures to the benefit of any member or stockholder. This exemption applies only with respect to concerts and has no application to other entertainments given by any such association. This exemption applies regardless of the disposition made of the proceeds from the admissions.

(3) *Municipal swimming pools, etc.* (i) Admissions to swimming pools, bathing beaches, skating rinks or other places providing facilities for physical exercise, which are operated by any State or political subdivision thereof or by the United States or any agency or instrumentality thereof, are exempt from tax provided the proceeds from the admission charges inure exclusively to the benefit of the State, political subdivision, United States, agency, or instrumentality. The term "State", for the purpose of this exemption, includes Alaska, Hawaii, and the District of Columbia.

(ii) The exemption applies where the payment for admission to the swimming pool, bathing beach, skating rink or other place providing facilities for physical exercise entitles the person making such payment to swim, skate, or otherwise use the facility offered. The exemption does not apply, however, where the only privilege afforded the person paying for admission is the right of being a spectator at any event, exhibition, tournament, etc., conducted at the place providing such facilities.

(4) *Home and garden tours.* Admissions to homes or gardens temporarily opened to the general public as part of a program conducted by a society or organization to permit the inspection of historic homes and gardens are exempt from tax, if no part of the net earnings thereof inures to the benefit of any private stockholder or individual. This exemption applies regardless of the disposition made of the proceeds from the admissions.

(5) *Historic sites.* (i) Admissions to historic sites, houses, and shrines, and museums conducted in connection therewith, maintained and operated by a society or organization devoted to the preservation and maintenance of such historic sites, houses, shrines, and museums are exempt from tax, if no part of the net earnings thereof inures to the benefit of any private stockholder or individual. This exemption applies regardless of the disposition made of the proceeds from the admissions.

(ii) Historic museums not maintained in connection with historic sites, houses, or shrines are not entitled to exemption with respect to admissions thereto.

(6) *Athletic events.* Admissions to any athletic game or exhibition the proceeds of which inure exclusively to the benefit of an elementary or secondary school are exempt from tax. Admissions to any athletic game or exhibition between two elementary or secondary schools are exempt from tax, provided the entire gross proceeds from such game inure to the benefit of a hospital for crippled children. For the purpose of this exemption, the term "secondary school" includes any high school, or the equivalent thereof, through grade twelve.

(e) *Scope of exemption, prior to November 1, 1951*—(1) *General rule.* The several exemptions from the tax on admissions allowed by section 1701 of the Code and by the Interior Department Appropriation Acts prior to October 1, 1941, were terminated as of that date by section 541 (b) and (c) of the Revenue Act of 1941. Accordingly, except as provided in subparagraph (2) of this paragraph, all amounts paid on and after October 1, 1941, for admission to any place are subject to tax, regardless of the purpose of the entertainment or affair and regardless of the organization or person to whom the proceeds inure. A child under 12 years of age admitted for less than 10 cents is not liable for tax. (See § 101.4.)

(2) *Exceptions.* (i) Amounts paid on and after October 1, 1941, for admission to theaters and other activities operated by or under the control of the War Department or the Navy Department within posts, camps, reservations, and other areas maintained by the Military or Naval Establishment shall be exempt from the tax imposed by this section, provided the net proceeds from said admission charges are used exclusively for the welfare of the military or naval forces of the United States. These exceptions are not applicable to amounts paid after December 31, 1947. (See section 11 of Pub. Law 384, 80th Cong.)

(ii) Effective August 1, 1948, no tax is imposed when a hospitalized member of the military, naval, or air forces of the United States, or a person hospitalized as a veteran by the United States in a Federal, State, municipal, private, or other hospital or institution, is admitted free, provided such member or veteran is not on leave or furlough. (See § 101.5 (b) (2).)

(iii) Effective October 1, 1951, to and including October 31, 1951, the tax does not apply to the admission free of charge of a member of the Armed Forces of the United States when in uniform. This exemption applies to free admissions only.

(f) *Admissions by or for the benefit of Federal, State, or Municipal Govern-*

ments. The fact that the authority charging admissions or receiving the proceeds thereof is the United States or an agency thereof, or a State or Territory or political subdivision thereof, such as a county, city, town, or other municipality, does not make such admissions exempt, in the absence of specific statutory provision. The Code specifically provides that the taxes on admission shall be paid by the person paying for admission. It is not, therefore, a tax on the person or authority selling the admissions or receiving the proceeds thereof.

§ 101.16 *Application for exemption.* (a) A determination concerning the applicability of an exemption provided by section 1701 may be obtained by the timely filing of a properly executed application for exemption on Form 755. This form may be procured from any director of internal revenue. The application shall show the place and the occasion with respect to which exemption is requested. It shall be executed by an officer or duly authorized agent of the organization in control of the admissions or excess charges or, in case of control by an individual, the application must be executed by him or his duly authorized agent. Where the proceeds of the admissions or excess charges will inure to the benefit of an organization not in control of such admissions or excess charges, the beneficiary shall join in executing the application for exemption.

(b) The application shall be filed with the director of internal revenue for the district in which is located the place to which the admissions will be sold. It shall be filed as early as possible so that the organization may be advised in ample time prior to the date of the event of the action taken by the director. The application shall be accompanied by the necessary supporting data specified therein, so that action can be taken without the necessity of additional correspondence.

(53 Stat. 467; 26 U. S. C. 3791)

[SEAL] T. COLEMAN ANDREWS,
Commissioner of Internal Revenue.

Approved: April 15, 1953.

M. B. FOLSOM,
Acting Secretary of the Treasury.

[F. R. Doc. 53-3523; Filed, Apr. 21, 1953; 8:51 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Appendix—Public Land Orders

[Public Land Order 892]

LOUISIANA

REVOKING EXECUTIVE ORDER OF AUGUST 8, 1907

By virtue of the authority vested in the President, and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F R. 4831) it is ordered as follows:

The Executive order of August 8, 1907, reserving and setting aside the following-described areas for the use of the Department of Agriculture as a preserve and breeding ground for native birds, to be known as Tern Islands Reservation, now Tern Islands National Wildlife Refuge, is hereby revoked:

All small islets, commonly called mud lumps, in or near the mouths of the Mississippi River located within the area segregated and shown upon a diagram attached to and made a part of the Executive order.

DOUGLAS MCKAY,
Secretary of the Interior

APRIL 15, 1953.

[F. R. Doc. 53-3501; Filed, Apr. 21, 1953; 8:45 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Bureau of Animal Industry

[9 CFR Part 76]

QUARANTINE AND REGULATIONS RESTRICTING INTERSTATE MOVEMENT OF SWINE AND SWINE PRODUCTS BECAUSE OF VESICULAR EXANTHEMA

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given in accordance with section 4 (a) of the Administrative Procedure Act (5 U. S. C. 1003 (a)) that the Secretary of Agriculture, pursuant to the authority vested in him by sections 1 and 3 of the act of March 3, 1905, as amended (21 U. S. C. 123 and 125) sections 1 and 2 of the act of February 2, 1903, as amended (21 U. S. C. 111 and 120) and section 7 of the act of May 29, 1884, as amended (21 U. S. C. 117) is considering amending Subpart B of Part 76, Title 9, Code of Federal Regulations (17 F R. 10538, as amended) to read as follows:

SUBPART B—VESICULAR EXANTHEMA

§ 76.25 *Definitions.* As used in this subpart, the following terms shall have the meanings set forth in this section.

(a) *Administrator* The Administrator of the Agricultural Research Administration, United States Department of Agriculture, or any other official of such Administration to whom authority has heretofore been delegated or may hereafter be delegated to act in his stead.

(b) *Bureau.* The Bureau of Animal Industry, Agricultural Research Administration, United States Department of Agriculture.

(c) *Chief of Bureau.* The Chief of the Bureau or any other official of the Bureau to whom authority has heretofore been delegated or may hereafter be delegated to act in his stead.

(d) *Garbage.* Waste consisting in whole or in part of animal waste resulting from handling, preparing, cooking, and consuming of food including the offal from animal carcasses or parts thereof.

(e) *Uncooked garbage.* Garbage that has not been heated throughout to a temperature of at least 212° F for 30 minutes or heated according to a method specifically approved by the Chief of Bureau.

(f) *Quarantined area.* An area specified in § 76.29 as an area quarantined because of vesicular exanthema.

(g) *State.* State, Territory, or the District of Columbia.

(h) *Interstate.* From one State into or through any other State.

(i) *Person.* Any person, company or corporation.

(j) *Moved or movement.* As applied to swine, the term "moved" or "movement" means transported, shipped, delivered or received for transportation, driven on foot or caused to be driven on foot, by any person, and as applied to swine products, the term "moved" or "movement" means transported, shipped, or delivered or received for transportation, by any person.

(k) *Public stockyard.* A stockyard where trading in livestock is carried on; where yarding, feeding, and water facilities are provided by the stockyard, transportation, or similar company and where Federal inspection is maintained for the inspection of livestock for communicable diseases.

(l) *Clean stockyard.* A public stockyard at which Bureau inspection service is maintained and which is found by the Chief of Bureau to be free from the infection of vesicular exanthema.

(m) *Specially processed or special processing.* Subjecting swine products to heat treatment in accordance with the requirements contained in § 76.32.

(n) *Swine product.* Any carcass, part or offal of swine.

(o) *Vesicular exanthema.* The contagious, infectious, and communicable disease of swine commonly known as vesicular exanthema.

§ 76.26 *Notice relating to existence of the contagion of vesicular exanthema and to regulations governing movement of swine and swine products.* (a) Notice is hereby given that the Secretary of Agriculture has reason to believe that the contagion of vesicular exanthema exists within and throughout the United States, and that uncooked garbage is one of the primary media through which such contagion is disseminated. Since June 16, 1952, vesicular exanthema has been diagnosed in 42 States. Almost without exception, each occurrence of such disease has been traced to swine fed on uncooked garbage. Even infection by contact usually can be traced back to swine fed such garbage. Virus-infected meat scraps in uncooked garbage carry the disease into herd after herd at great loss to livestock owners, the packing industry, and the consuming public. The contagion of such disease is extremely virulent and experience with the disease shows that such contagion is disseminated very rapidly.

Therefore, in order to more effectually suppress and extirpate vesicular exanthema, to prevent the spread thereof, and to protect the livestock industry of the United States, the regulations in this subpart governing the interstate movemen of swine and swine products are promulgated.

(b) Section 76.27 contains the general restrictions on the interstate movement of swine and swine products. Sections 76.28, 76.32, 76.33, 76.34, and 76.35 contain the regulations governing such interstate movement except from a quarantined area. Section 76.29 contains a notice regarding areas in which swine are affected with vesicular exanthema and a quarantine of certain areas. Sections 76.30, 76.32, 76.33, 76.34, and 76.35 contain the regulations governing such interstate movement from a quarantined area. Section 76.31 contains the regulations governing such interstate movement through a quarantined area.

§ 76.27 *General restrictions.* Swine affected with vesicular exanthema may not be moved interstate for any purpose. Swine not so affected and swine products may not be moved interstate except as provided in the regulations in this subpart: *Provided, however,* That swine products which are specially processed and swine products identified by warehouse receipts or other information satisfactory to the Chief of Bureau as having been derived from swine that were slaughtered prior to July 25, 1952, may be moved interstate without restriction under this subpart.

§ 76.28 *Movement of swine and swine products, except from a quarantined area*—(a) *Movement of swine which have not been fed uncooked garbage, and swine products derived from such swine.* (1) Swine which have not been fed any uncooked garbage may be moved interstate under this subpart, except from a quarantined area, if accompanied by a certificate of the owner or shipper stating that, as far as he has been able to determine, such swine have not been fed any uncooked garbage and such swine are not and have not been affected with vesicular exanthema and have not been exposed thereto.

(2) Swine products derived from swine which had not been fed any uncooked garbage may be moved interstate under this subpart, except from a quarantined area, if accompanied by a certificate of the owner or shipper stating that, as far as he has been able to determine, such swine products were derived from swine which had not been fed any uncooked garbage and that such swine had not been affected with or exposed to vesicular exanthema.

(b) *Movement of swine fed uncooked garbage and swine products derived from such swine.* (1) Swine which have been fed any uncooked garbage may be moved interstate under this subpart to an establishment specifically approved for the purpose by the Chief of Bureau for immediate slaughter and special processing at such establishment if accompanied by a permit obtained by the owner or shipper from an inspector of the Bureau and a certificate of a veterinarian stating that veterinary inspection of such swine on the premises of origin just prior to movement therefrom disclosed no evidence of vesicular exanthema.

(2) Swine products derived from swine which had been fed any uncooked garbage may be moved interstate under this subpart provided that such products are specially processed.

(c) *Authorization of movement by Chief of Bureau.* The Chief of Bureau may authorize the movement of swine and swine products not otherwise authorized by this section under such conditions as he may prescribe to prevent the spread of vesicular exanthema.

§ 76.29 *Notice regarding areas in which swine are affected with vesicular exanthema and quarantine of certain arears.* (a) Notice is hereby given that swine are affected with vesicular exanthema in the following areas:

(b) The Secretary of Agriculture, having determined that swine in the States named in paragraph (a) of this section are affected with the contagious, infectious and communicable disease known as vesicular exanthema and that it is necessary to quarantine the areas specified in said paragraph (a) of this section and the following additional areas in such States, in order to prevent the spread of said disease from such States, hereby quarantines the areas specified in paragraph (a) of this section and in addition:

(c) Each of the areas specified in paragraphs (a) and (b) of this section shall be quarantined until the Administrator finds that swine in such area are no longer affected with vesicular exanthema and that the quarantine is no longer required to prevent the dissemination thereof.

§ 76.30 *Movement of swine and swine products from a quarantined area*—(a) *Movement of swine.* (1) Swine which have not been fed any uncooked garbage may be moved interstate under this subpart from a quarantined area to an establishment specifically approved for the purpose by the Chief of Bureau for immediate slaughter and special processing at such establishment if accompanied by a permit obtained by the owner or shipper from an inspector of the Bureau and a certificate of the owner or shipper stating that, as far as he has been able to determine, such swine have not been fed any uncooked garbage and such swine are not affected with vesicular exanthema.

(2) Swine which have been fed any uncooked garbage may be moved interstate under this subpart to an establishment specifically approved for the purpose by the Chief of Bureau for immediate slaughter and special processing at such establishment if accompanied by a permit obtained by the owner or shipper from an inspector of the Bureau and a certificate of a veterinarian stating that veterinary inspection of such swine on the premises of origin just prior to movement therefrom disclosed no evidence of vesicular exanthema.

(3) Swine permitted interstate movement under this subpart, which are moved into a quarantined area from a point outside the quarantined areas directly to a clean stockyard, may be moved interstate under this subpart from such stockyard under conditions prescribed by the Chief of Bureau directly to an establishment specifically approved for the purpose by said Chief for immediate slaughter in a manner approved by said Chief as adequate to prevent the spread of vesicular exanthema, but said Chief may also require the processing of such swine in a manner approved by him if he finds such processing is necessary to prevent the spread of said disease. The provisions of subparagraphs (1) and (2) of this paragraph shall not be applicable to such movements. Swine products derived from such swine may be moved interstate as provided in the applicable provisions of this subpart.

(b) *Movement of swine products.* (1) Swine products derived from swine affected with vesicular exanthema or from swine which had been fed any uncooked garbage may be moved interstate under this subpart from a quarantined area provided that such products are specially processed.

(2) Swine products derived from swine which had not been fed any uncooked garbage may be moved interstate under this subpart from a quarantined area to an establishment specifically approved for the purpose by the Chief of Bureau for special processing at such establishment if accompanied by a certificate of the owner or shipper stating that, as far as he has been able to determine, such swine products were derived from swine which had not been fed any uncooked garbage and such swine had not been affected with vesicular exanthema.

(3) The following swine products derived from swine which had not been fed any uncooked garbage may be moved interstate under this subpart from a quarantined area under such conditions as may be prescribed by the Chief of Bureau to prevent the spread of vesicular exanthema if accompanied by a certificate of the owner or shipper stating that, as far as he has been able to determine, such swine products were derived from swine which had not been fed any uncooked garbage and such swine had not been affected with vesicular exanthema: (i) Swine products which have been processed in the course of normal establishment procedures in a manner approved by said Chief as adequate to prevent the spread of vesicular exanthema; (ii) swine products derived from swine; permitted interstate movement under this subpart, which were moved into the quarantined area from a point outside the quarantined areas directly to a clean stockyard and which were slaughtered, immediately upon their removal from such stockyard, at an establishment specifically approved for the purpose by said Chief in a manner approved by said Chief as adequate to prevent the spread of vesicular exanthema, and, if required by said Chief, processed in a manner approved by him; (iii) swine products derived from swine, permitted interstate movement under this subpart which were moved into the quarantined area from a point outside

the quarantined areas directly to a slaughtering establishment and there slaughtered immediately upon arrival, under conditions approved by said Chief. The provisions of subparagraph (2) of this paragraph shall not be applicable to such movements.

(c) The Chief of Bureau may authorize the movement of swine and swine products not otherwise authorized by this section under such conditions as he may prescribe to prevent the spread of vesicular exanthema.

(d) The Chief of Bureau may require that swine and swine products which have been exposed to or have been affected with vesicular exanthema, and which are moved interstate under this section from any quarantined area to an approved establishment for slaughter and processing or for processing, as the case may be, shall be moved under Bureau seals or accompanied by a representative of the Bureau.

(e) Swine and swine products in transit between points outside the quarantined areas through any such quarantined area shall not be deemed to be moved from the quarantined area under this section.

§ 76.31 *Movement of swine and swine products through a quarantined area.* Swine or swine products which are moved interstate in transit between points outside the quarantined areas through any quarantined area shall not be unloaded in any quarantined area unless all facilities to be used therein in connection with the unloading have been approved for such purpose by the Bureau and have been cleaned and disinfected before such use in a manner approved by the Bureau and under the supervision of a person authorized for the purpose by the Bureau.

§ 76.32 *Special processing of swine products.* All swine products required under the regulations in this subpart to be specially processed shall be heated throughout according to the following schedules:

(a) Boneless portions or parts of carcasses shall be heated to a temperature of at least 156° F momentarily, or to a temperature between 145° F and 156° F and held at such temperature for 15 minutes.

(b) Parts of carcasses containing bone shall be heated to attain an internal temperature of at least 156° F for 15 minutes.

§ 76.33 *Disinfection of vehicles and facilities.* (a) Except as provided by the Chief of Bureau, railroad cars, boats, trucks, and other vehicles, and their equipment, and all other facilities, including facilities for feeding, watering, and resting swine, but excluding public stockyards, which are used in connection with the interstate movement of swine or swine products which are not specially processed shall be thoroughly cleaned and disinfected as prescribed in paragraph (e) of this section immediately after each such use. Such boats, vehicles, and their equipment shall be cleaned and disinfected at a point designated by the Chief of Bureau where supervision is being maintained over such cleaning and disinfecting.

(b) Except as provided by the Chief of Bureau, no swine shall be transported interstate in any railroad car, boat, truck, or other vehicle which has been used in any movement of livestock since such boat or vehicle was last cleaned and disinfected as prescribed in paragraph (e) of this section.

(c) The carrier shall be responsible for having all railroad cars, boats, trucks, and other vehicles, and their equipment, cleaned and disinfected as required by this section.

(d) The cleaning and disinfecting required by this section shall be done without expense to the Bureau.

(e) The following prescribed method of cleaning and disinfecting of boats and vehicles and their equipment shall be used: Remove all litter, feed, and manure from all portions of each car, boat, truck, or other vehicle including all ledges and framework outside, and handle such litter, feed, and manure in such manner as not to expose livestock to any disease contained therein; clean the interior and the exterior of each such boat or vehicle and its equipment; saturate the entire interior surface including all doors, end-gates, portable chutes, and similar equipment with one of the disinfectants prescribed in § 76.35. The following prescribed method of cleaning and disinfecting of other facilities shall be used: Empty all troughs, racks, and other feeding and watering appliances; remove all litter, feed, and manure from the floors, posts, or other parts and handle such litter, feed, and manure in such manner as not to expose livestock to any disease contained therein, saturate the entire surface of the fencing, troughs, chutes, floors, walls, and all other parts with one of the disinfectants prescribed in § 76.35.

§ 76.34 *Disinfection of public stockyards.* (a) Public stock yards, or the portions thereof, used in handling swine infected with or exposed to vesicular exanthema, or which the Chief of Bureau has reason to believe may have been so used, shall be cleaned and disinfected under Bureau supervision. Such public stockyards or such portions thereof shall not be used in handling swine until after the cleaning and disinfecting required by this section have been completed. Such cleaning and disinfecting shall be done without expense to the Bureau.

(b) The following prescribed method of cleaning and disinfecting shall be used. Empty all troughs, racks, and other feeding and watering appliances; remove all litter, feed, and manure from the floors, posts, and other parts, and handle such litter, feed, and manure in such manner as not to expose livestock to any disease contained therein; and saturate the entire surface of the fencings, troughs, chutes, floors, walls, and all other parts with one of the disinfectants prescribed in § 76.35.

§ 76.35 *Disinfectants to be used.* The disinfections required under the regulations in this subpart shall be performed with one of the following:

(a) Soda Ash (sodium carbonate) used at the rate of one pound to three gallons of water.

(b) Sal soda used at the rate of 13½ ounces to one gallon of water.

(c) Lye (sodium hydroxide) used at the rate of 13 ounces to five gallons of water. (Due to the extreme caustic nature of sodium hydroxide solution, precautionary measures such as the wearing of rubber gloves and boots to protect the hands and feet, and goggles to protect the eyes, should be taken by those engaged on the disinfection job. It is also advisable to have an acid solution, such as vinegar, in readiness in case any of the sodium hydroxide solution should come in contact with any part of the body.)

Any person who wishes to submit written data, views, or arguments concerning the foregoing proposed amendment may do so by filing them with the Chief of the Bureau of Animal Industry, Agricultural Research Administration, United States Department of Agriculture, Washington 25, D. C., within twenty days after the date of publication of this notice in the FEDERAL REGISTER.

Done at Washington, D. C., this 17th day of April 1953.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[F. R. Doc. 53-3524; Filed, Apr. 21, 1953; 8:51 a. m.]

Production and Marketing Administration

[7 CFR Part 962]

[Docket No. AO 162-a3]

FRESH PEACHES GROWN IN GEORGIA

DECISION WITH RESPECT TO PROPOSED AMENDMENTS TO AMENDED MARKETING AGREEMENT AND ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Macon, Georgia, on March 17, 1953, pursuant to notice thereof published in the FEDERAL REGISTER (18 F R. 1360), upon proposed amendments to Marketing Agreement No. 99, as amended, hereinafter referred to as the "marketing agreement," and Order No. 62, as amended (7 CFR Part 962) hereinafter referred to as the "order," regulating the handling of fresh peaches grown in Georgia.

Material issues. The material issues presented on the record of the hearing are whether:

(1) The definition of the term "adjacent markets" should be amended by adding the State of Mississippi and that portion of the State of Louisiana which is east of the Mississippi River to those States currently comprising the adjacent markets;

(2) The provisions for exemption certificates should be modified to authorize the issuance of exemptions to any grower who submits proof that, due to reasons beyond his control, he will be prevented, as a result of regulations, from shipping, or having shipped, as large a proportion of his peaches as the average proportion of peaches shipped by all growers;

(3) A method of exempting from the inspection requirements of the marketing agreement and order shipments of peaches in bulk to the adjacent markets should be included;

(4) The provisions of § 962.60 authorize the issuance of regulations with respect to other than adjacent markets during periods when no such regulations are in effect with respect to the adjacent markets; and

(5) The facts presented on the record warrant the omission of a recommended decision and opportunity to file exceptions thereto.

Findings and conclusions. The findings and conclusions on the material issues are based upon the evidence adduced at the hearing and the record thereof, and are as follows:

(1) The definition of the term "adjacent markets" should be enlarged by adding the State of Mississippi and that portion of the State of Louisiana which is east of the Mississippi River to the list of States currently incorporated in that term. Such adjacent markets, as redefined, should be treated in the marketing agreement and order as a single unit comprising all of these States or specified portions thereof.

The provisions authorizing the Industry Committee to recommend, and the Secretary to prescribe, separate requirements for any variety or varieties of peaches shipped to destinations in the adjacent markets different from the grade and size limitations applicable to shipments of the same variety, or varieties, of peaches to destinations outside of the adjacent markets was shown to have effectuated the declared policy of the act through enabling growers to derive additional income from the sale of lower-grade peaches in adjacent markets. Also, such provisions have contributed toward the establishment of more effective grade and size regulations for peaches shipped to markets outside the adjacent markets.

Experience in the operation of regulations under the marketing agreement and order has demonstrated that the boundaries of the adjacent markets should be extended. At the start, the Industry Committee, the administrative agency established under the marketing agreement and order, was of the opinion that the adjacent markets should be confined to the five States bordering the State of Georgia. The characteristics of the market for peaches in Mississippi and the eastern part of Louisiana, however, are similar to those of markets in the States currently comprising the adjacent market area. The per capita income of consumers, on the average, in Mississippi and Louisiana is comparable to the per capita income of consumers in the present 5-State area of the adjacent markets. Such income in the redefined "adjacent markets" has been lower in recent years than the average per capita income in States outside the adjacent markets.

Most fruit shipped to the adjacent markets during the past two seasons consisted of lower-grade peaches in bulk. Such fruit is mature and normally is softer than fruit packed for shipment to destinations outside the adjacent markets, because it generally includes peaches that are sorted out in the packing process and are too ripe for shipment to terminal markets. It was shown that such peaches transported in bulk cannot usually be shipped for a distance in excess of 400 to 500 miles without deteriorating unduly.

The Mississippi River tends to provide a natural western boundary for the adjacent market area. Furthermore, shipments of Georgia peaches to the western part of the State of Tennessee, already incorporated in the adjacent markets, normally have been routed through part of the State of Mississippi.

Sales of peaches that were transported in bulk to certain important urban areas within the present adjacent markets have not adversely affected the marketing of packed peaches of higher grade in such markets and, therefore, the inclusion of the City of New Orleans, for example, in the adjacent markets should not result in an adverse effect upon the marketing of packed peaches of higher grades in such market.

Shipments of packed peaches from the State of Georgia to Mississippi and Louisiana have been negligible during recent seasons. The testimony shows, however, that the State of Mississippi and that part of Louisiana east of the Mississippi River would provide a market for substantial quantities of bulk peaches. The addition of such territory to the present adjacent market area would, therefore, increase the opportunities for sale of bulk peaches, and thus improve returns received by growers from the sales of such peaches.

(2) The provisions governing the issuance of exemption certificates should be modified to provide that any grower who furnishes proof satisfactory to the Industry Committee that by virtue of conditions beyond his control he will be prevented, because of a regulation in effect, from shipping, or having shipped, a percentage of his crop of a particular variety of peaches equal to the percentage of all such peaches permitted to be shipped from the area shall be entitled to an exemption certificate. Such certificate shall authorize the shipment of an appropriate quantity of exempted peaches of such variety so as to enable such grower to ship as large a proportion of his crop thereof as the determined percentage of all such variety that may be shipped from the area. These exemption provisions are designed to afford relief to growers from the imposition of inequities which, by reason of conditions beyond their control, may accrue from regulations.

No exemption certificates should, however, be issued for peaches which are not mature, because maturity is a condition subject to the control of the grower.

The present marketing agreement and order contain provisions authorizing the issuance of exemption certificates. However, the issuance of exemption certificates is prohibited whenever separate requirements are in effect for shipments of peaches to adjacent markets and differ from grade and size limitations applicable to shipments of peaches outside the adjacent markets. The effect of this prohibition has been such as to preclude the issuance of any exemption certificate during the past two seasons since different regulations were prescribed for fruit shipped to the adjacent markets and for fruit shipped to markets outside such markets.

The marketing agreement and order should, therefore, be amended to authorize the issuance of an exemption certificate to each grower who furnishes satisfactory proof that his need for such exemption is due to reasons beyond his control, such as hail or frost injury. The determination, and calculation, of the quantity of peaches that may be shipped under an exemption certificate should be based on the kind of regulation prohibiting the shipment of such peaches. For example, since grade and size regulations are established on a varietal basis, an exemption certificate for the shipment of restricted peaches should be on the same basis. In addition, the determination and calculation should be based upon the respective destination (i. e., whether in terminal markets or adjacent markets) of peaches. Thus, if a regulation is established for the shipment of fruit to markets other than in adjacent markets, and different requirements are applicable to peaches shipped to adjacent markets, exemption certificates covering peach shipments to all such markets should be computed separately on the basis of the respective quantities of peaches that could be shipped under the applicable regulation.

Provision should be made for the transfer of an exemption certificate from a grower to the handler of such grower's peaches because many growers do not pack and ship their own peaches.

The Industry Committee should adopt procedural rules to govern the issuance of exemption certificates. Such rules are necessary in order that all growers may be informed with respect to the requirements pertaining to the application for and issuance of exemption certificates. It is impracticable to set forth detailed rules in the agreement and order because to do so would destroy the flexibility which is needed to reflect variations in conditions affecting the production of peaches.

(3) The marketing agreement and order should be amended to authorize the Industry Committee to recommend, and the Secretary to prescribe, that the inspection requirements of the marketing agreement and order shall not be applicable to any peaches in bulk shipped to the adjacent markets. This provision should authorize the exemption of such shipments from only the inspection requirements, but such shipments shall be required to comply in all other respects with the provisions of the program.

Shipments of peaches to the adjacent markets were shown to consist primarily of peaches transported in trucks in bulk form. Practically all transactions consist of peaches purchased by truckers and purchased upon the trucker's inspection. Most of such sales are made in small lots of less than 100 bushels. Such peaches, as a rule, are of a more advanced degree of ripeness than the fruit packed for shipment to markets outside the adjacent markets.

The testimony indicates that the prerequisite inspection pursuant to the marketing agreement and order for sales of peaches was immediately available to truckers at packinghouses during the day and early evening hours. Purchases of peaches in bulk by truckers, however, are made not only at all times during the day and night at packinghouses but also at times at individual orchards. Inspectors reasonably cannot be made immediately available to inspect lots of bulk peaches sold at night at packinghouses or at individual orchards. The testimony indicates that delay in securing inspection often was encountered in connection with such sales. It was shown that such delay in securing inspection for sales of fruit at individual orchards often forced truckers to seek fruit elsewhere and caused the loss of particular sales, thus creating some inequities.

In contrast to sales of peaches in bulk, sales of packed peaches usually are made during daytime hours. Inspectors are present in packinghouses during hours when peaches are being packed, and consequently inspection service for such fruit is immediately available.

Since the purchase of peaches in bulk by truckers usually is made for the purpose of resale within a matter of a few hours, such truckers confine their purchases to mature fruit. Moreover, a maturity regulation has been the only type of restriction that has been issued for shipments of peaches to adjacent markets during the past two seasons. Hence, it does not appear necessary in order to effectuate the declared purposes of the act to require at all times the inspection of such bulk fruit to ascertain its maturity.

In the event the Industry Committee recommends restrictions other than with respect to maturity applicable to peaches in bulk shipped to destinations in adjacent markets, and they are made effective, it may be necessary to require inspection for all such shipments to assure compliance with such regulations. Furthermore, in the event no prior inspection is mandatory for shipments of peaches in bulk and such shipments are found to provide a means of circumventing a regulation applicable to shipments to adjacent markets, it may be necessary to require the prior inspection for all such shipments. In addition, unforeseen circumstances arising at a future date may warrant the requirement that peaches in bulk shipped to adjacent markets be inspected. Therefore, such exemption from inspection should be included in the marketing agreement and order on a permissive rather than a mandatory basis; and the recommendation of the Industry Committee should be considered in connection with the prescription of such exemption. In the absence of a specification in a regulation that peaches in bulk shipped to adjacent markets are exempt from prior inspection, such inspection will be mandatory.

It was shown that because of the cost of repackaging fruit shipped in bulk, it was not likely that peaches shipped in bulk to destinations in adjacent markets would subsequently be packaged for reshipment to markets outside the adjacent market area.

Because of the significance of the term "peaches in bulk" in relation to enforcement and the operations of the inspection provisions of the marketing agreement and order program, this term should be defined and included in the marketing agreement and order. The term "bulk" is commonly used and accepted by growers and shippers of Georgia peaches to refer to all peaches which are not packed. At the present time, peaches that are packed are in bushel or one-half bushel baskets, with liners, and ring-faced. Such peaches are usually shipped to distant markets. Peaches in bulk are loaded loose into a conveyance, or loose into a container without liners, without being placepacked or arranged, and without being ring-faced.

(4) The provisions of § 962.60 of the marketing agreement and order relating to regulation of shipments by grades and sizes authorize separate requirements applicable to shipments of any variety or varieties of peaches to destinations in adjacent markets, different from grade and size limitations applicable to shipments of the same variety to destinations other than in adjacent markets. The record shows that such provisions are intended to authorize the establishment of particular grade and size regulations for shipments to markets other than in the adjacent markets, even though, at the same time, there are no grade or size regulations established for shipments to adjacent markets. No amendment to this provision of the marketing agreement and order is necessary to clarify such intent.

(5) The due and timely execution of the functions of the Secretary of Agriculture under the act imperatively and unavoidably requires the omission in this instance of a recommended decision by the Assistant Administrator, Production and Marketing Administration, and the opportunity to file exceptions thereto. The hearing record establishes that shipments of fresh peaches from the area are expected to start on or about May 15, 1953. Testimony showing the need for these amendments was adduced at the hearing by growers who stressed the need for prompt and timely action in making the proposed amendments effective, in order that the benefits flowing from the amendments will be available at the beginning of the season and to avoid any inequities which might otherwise develop if the amendments become effective at a later date.

The marketing agreement and order were amended in 1950 to provide for the establishment of an adjacent market area and for the authorization of regulations of shipments to adjacent markets different from regulations established for shipments to destinations outside the adjacent markets. Experience in the administration of such regulations during the 1951 and 1952 seasons demonstrated the need for and provided the basis of the proposed amendments to the marketing agreement and order program. A referendum was held in December 1952, pursuant to § 962.81 of the marketing agreement and order to determine whether the termination of the provisions of the marketing agreement and order was favored by growers. The results of this referendum, announced in January 1953, showed that a majority of the growers voting in the referendum favored continuation of the program. Immediately thereafter the Industry Committee initiated the steps necessary to amend the marketing agreement and order to make possible the proposed changes.

In view of the imminence of the 1953 marketing season and the short period available prior to the start of shipments, it is imperative that the amendments be made effective at the earliest date possible. The time which necessarily would be consumed in preparing, filing, and issuing a recommended decision, allowance of a reasonable period for the filing of exceptions thereto, and the consideration of any such exceptions preliminary to the issuance of a decision would delay unduly the effective date of the amendments and thereby prevent the benefits of such amendments from being realized throughout the 1953 season. The propriety of omitting the recommended decision and opportunity for filing exceptions thereto, with respect to the issues decided herein, was indicated on the record by interested parties.

Rulings on findings and conclusions. The period ending March 20, 1953, was fixed for the filing of briefs, proposed findings, or conclusions. No such documents were filed within the prescribed time.

General findings. (1) The marketing agreement as hereby proposed to be amended, and the order as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The marketing agreement as hereby proposed to be amended, and the order as hereby proposed to be amended regulate the handling of peaches grown in the State of Georgia in the same manner as, and are applicable only to persons in the respective classes of industrial and commercial activity specified in, the marketing agreement upon which hearings have been held;

(3) The marketing agreement as hereby proposed to be amended, and the order as hereby proposed to be amended are limited in their application to the smallest regional production area that is practicable, consistently with carrying out the declared policy of the act; and the issuance of several orders applicable to subdivisions of such regional production area would not effectively carry out the declared policy of the act; and

(4) The marketing agreement as hereby proposed to be amended, and the order as hereby proposed to be amended

prescribe such different terms applicable to different marketing areas, as are necessary to give due recognition to such differences in the marketing of such peaches.

Effective February 15, 1953, the parity price for peaches grown in the production area was $2.79 per bushel on the tree. On the basis of information now available, the seasonal average farm price for the 1953 crop of peaches grown in the production area will not exceed the parity price level for the 1953 season.

Amendments to the marketing agreement and order Annexed hereto and made a part hereof are two documents entitled, respectively, "Agreement Amending the Marketing Agreement, as amended, Regulating the Handling of Fresh Peaches Grown in Georgia" and "Order Amending the Order, as amended, Regulating the Handling of Fresh Peaches Grown in Georgia" which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the aforesaid rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

It is hereby ordered, That all of this decision except the annexed agreement amending the marketing agreement be published in the FEDERAL REGISTER. The regulatory provisions of the said agreement amending the marketing agreement are identical with those contained in the said amendatory order which will be published with this decision.

This decision filed at Washington, D. C., this 17th day of April 1953.

[SEAL] E. T. BENSON,
Secretary of Agriculture.

Order[1] *Amending the Order as Amended, Regulating the Handling of Fresh Peaches Grown in Georgia*

§ 962.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations made in connection with the issuance of this order and each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to Public Act No. 10, 73d Congress (May 12, 1933) as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Macon, Georgia, on March 17, 1953, upon proposed amendments to Marketing Agreement No. 99, as amended, and Order No. 62, as amended, (7 CFR Part 962), regulating the handling of fresh peaches grown in Georgia. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The said order, as amended, and as hereby further amended, regulates the handling of peaches grown in Georgia in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity specified in the marketing agreement upon which hearings have been held;

(3) The said order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area that is practicable, consistently with carrying out the declared policy of the act; and the issuance of several orders applicable to subdivisions of such regional production area would not effectively carry out the declared policy of the act; and

(4) The said order, as amended, and as hereby further amended, prescribes such different terms applicable to different marketing areas, as are necessary to give due recognition to such differences in the marketing of such peaches.

It is, therefore, ordered, That, on and after the effective date hereof, all handling of fresh peaches grown in the production area shall be in conformity to, and in compliance with, the terms and conditions of the aforesaid order, as amended, and as hereby further amended as follows:

1. Delete § 962.11 and insert, in lieu thereof, the following:

§ 962.11 *Adjacent markets.* "Adjacent markets" means the States of Florida, Alabama, Tennessee, North Carolina, South Carolina, Mississippi, and that portion of Louisiana which is east of the Mississippi River.

2. Add a new § 962.12 to read as follows:

§ 962.12 *Peaches in bulk.* "Peaches in bulk" means peaches loose in a conveyance or loose in containers without being place-packed or ring-faced and without liners.

3. Delete § 962.62 and substitute, in lieu thereof, the following:

§ 963.62 *Exemption certificates.* In the event peaches are regulated pursuant to §§ 962.60 or 962.61, the committee shall issue one or more exemption certificates to any grower who furnishes evidence satisfactory to the Industry Committee that, by virtue of conditions beyond his control, he will be prevented by reason of such regulation from having as large a proportion of a particular variety of his peaches shipped to adjacent markets or to other markets, respectively, as the average proportion of all such peaches which may be so shipped by all growers in the area. Such exemption certificate shall permit the respective grower to whom the certificate is issued to ship, or have shipped, a percentage of his crop of such variety of peaches equal to the percentage determined as aforesaid. The Industry Committee shall adopt, with the approval of the Secretary, procedural rules by which such exemption certificates will be issued to growers. Such exemption certificates may be transferred to handlers when accompanied by peaches covered by such certificates.

4. Delete the colon immediately preceding the proviso in the first sentence of § 962.64 and insert in lieu thereof, the following: " unless such regulation provides that this requirement shall not be applicable to any shipment of peaches in bulk to the adjacent markets:"

Order Directing That a Referendum Be Conducted: Designation of Referendum Agents To Conduct Such Referendum; and Determination of Representative Period

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.) it is hereby directed that a referendum be conducted among the producers who, during the calendar year 1952 (which period is hereby determined to be a representative period for the purpose of such referendum) were engaged, in the State of Georgia, in the production of peaches for market to ascertain whether such producers favor the issuance of an order amending Order No. 62, as amended, effective April 27, 1942, regulating the handling of fresh peaches grown in the State of Georgia; and said amendatory order is annexed to the decision of the Secretary of Agriculture filed simultaneously herewith. D. K. Young and G. A. Nahstoll of the Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, are hereby designated as agents of the Secretary of Agriculture to conduct said referendum jointly or severally.

The procedure aplicable to this referendum shall be the "Procedure for the Conduct of Referenda Among Producers in Connection with Marketing Orders (Except Those Applicable to Milk and Its Products) to Become Effective Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended" (15 F R. 5176).

Copies of the aforesaid annexed order, of Order No. 62, as amended, of the aforesaid procedure (15 F. R. 5176) and of this order may be examined in the Office of the Hearing Clerk, United States Department of Agriculture, Room 1353, South Building, Washington, D. C., and at the Southeastern Marketing Field Office, Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, Room 631, 50 Seventh Street NE., Atlanta 5, Georgia.

Ballots to be cast in the referendum, and other necessary forms and instruc-

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

tions, may be obtained at the said Field Office, or from any appointee hereunder.

[F. R. Doc. 53-3523; Filed, Apr. 21, 1953; 8:51 a. m.]

[7 CFR Part 971]

[Docket No. AO-175-A10]

HANDLING OF MILK IN THE DAYTON-SPRINGFIELD, OHIO, MARKETING AREA

DECISION WITH RESPECT TO PROPOSED AMENDMENT TO TENTATIVE MARKETING AGREEMENT, AND TO ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was conducted at Dayton, Ohio, on January 6 and 7, 1953, pursuant to notice thereof which was issued on December 29, 1952 (18 F R. 46). Upon the basis of the evidence introduced at the hearing and the record thereof the Assistant Administrator, Production and Marketing Administration, on March 18, 1953, filed with the Hearing Clerk, United States Department of Agriculture his recommended decision and opportunity to file written exceptions thereto, which was published in the FEDERAL REGISTER on March 20, 1953 (18 F R. 1594)

The material issues presented on the record relate to:

1. The pricing of Class I milk;
2. The pricing of Class III milk;
3. Seasonal variation in returns to producers;
4. The producer butterfat differential;
5. Dates on which payments are required and rate of advance payment to producers;
6. Shrinkage allowance on transferred milk and on other source milk;
7. Other source milk which a cooperative association does not physically handle but causes to be delivered to a handler; and
8. Powers of the market administrator.

Findings and conclusions and general findings. In making the findings and reaching the conclusions contained in this decision all facts and data contained in the following material have been officially noticed:

1. Announcement of class prices for December 1952; Dayton-Springfield, Ohio, Marketing Area, Order No. 71, dated January 5, 1953; issued by Fred W Issler, Market Administrator.

2. Announcement of class prices for January 1953; Dayton-Springfield, Ohio, Marketing Area, Order No. 71, dated February 4, 1953; issued by Fred W. Issler, Market Administrator.

3. Computation of uniform prices; date: December 1952; Dayton-Springfield, Ohio, Marketing Area, Order No. 71, issued by Fred W Issler, Market Administrator.

4. Computation of uniform price; date: January 1953; Dayton-Springfield, Ohio, Marketing Area, Order No. 71, issued by Fred W Issler, Market Administrator.

5. Prices; December 1952; Cincinnati, Ohio, Milk Marketing Area, Federal Order No. 65; dated January 6, 1953; issued by Fred W Issler, Market Administrator.

6. Prices; January 1953; Cincinnati, Ohio, Milk Marketing Area, Federal Order No. 65; dated February 5, 1953; issued by Fred W Issler, Market Administrator.

7. Uniform price computation; December 1952; Cincinnati, Ohio, Milk Marketing Area, Federal Order No. 65.

8. Uniform price computation; January 1953; Cincinnati, Ohio, Milk Marketing Area, Federal Order No. 65.

Interested persons have been given an opportunity to show that the above material is inaccurate or is erroneously noticed and no such showing was made or attempted.

Pricing of Class I milk. No change should be made in the general level of the price for Grade A Class I milk, but the seasonal pattern should be changed to conform with the arrangement for seasonal variations in returns to producers proposed herein—specifically, $1.20 should be added to the basic formula price each month. The provisions for a supply-demand adjustment should remain unchanged except that (1) the seasonal variation in the amount of the supply-demand adjustment should be eliminated; and (2) the limitations presently applicable to such adjustments during July August, September, December, January, and February should be removed.

Separate Class I, Class II, and uniform prices for Grade A milk and non-Grade A milk are no longer necessary. All producer milk supplies for the market are now Grade A milk. Therefore, the computation of prices for non-Grade A milk can be eliminated.

Supplies of producer milk for the Dayton-Springfield market have been adequate to meet all Class I and Class II uses since February 1952. From May through November 1952 the relationship between market supplies and requirements was in close adjustment except for normal seasonal variation. In December 1952 and January 1953 market supplies increased substantially more than the normal seasonal increase and accordingly were considerably greater in relation to market requirements than the normal seasonal reserves. This increase in market supplies has occurred concurrently with a considerable although somewhat smaller increase in total milk production in the United States. Whether this increase in market supplies represents a trend or merely a short term fluctuation in supplies cannot be determined at this time. In any event, it appears from the relationship between market supplies and requirements that in the last several months Class I prices have been high enough to result in uniform prices at levels sufficient to insure adequate supplies of milk for the market.

Producer representatives sought justification for their proposed increase in the Class I price in the fact that Dayton-Springfield uniform prices have been low in relation to prices received by producers supplying certain other markets which compete with Dayton-Springfield for milk supplies, notably Cincinnati. The relationship between Dayton-Springfield uniform prices and prices received by producers supplying Cincinnati should be considered in establishing Dayton-Springfield Class I prices only to the extent that such prices in the Cincinnati market affect supplies for the Dayton-Springfield market. Inter-market prices relationships, however, cannot be relied upon in determining Class I prices to the exclusion of other considerations.

During the last four years the relationship between Dayton-Springfield and Cincinnati prices showed no perceptible change until October 1952. Since October 1952 the Cincinnati prices have been higher in relation to the Dayton-Springfield price than at any other time during these four years. Indications are that in February 1953 the Cincinnati uniform price will continue to exceed the Dayton-Springfield uniform price by a considerable amount; however, in March the Cincinnati Class I price will decline 18 cents in relation to the Dayton Class I price and the differences between the uniform prices in March will be less than during recent months. Indications are that the relationship between Dayton-Springfield and Cincinnati uniform prices during the next several months will be nearer to the historical relationship than the relationship which has prevailed since October 1952.

Apparently little or no shifting of supplies from Dayton-Springfield to Cincinnati or other markets has yet occurred. As noted above, market supplies in the last month or two have been more than adequate. Some shifting of supplies away from Dayton-Springfield might result if the price relationship of recent months between Dayton-Springfield and Cincinnati continued for several months; but with the prospect that beginning in March 1953 Cincinnati uniform prices will decline in relation to Dayton-Springfield uniform prices, any significant shifting of supplies away from the Dayton-Springfield market appears unlikely. Retention of the supply-demand adjustment provisions as herein proposed will assure that in the event a significant reduction in supplies does eventuate an automatic price adjustment will be made.

Sufficient basis cannot be found for discontinuing the supply-demand adjustment as proposed at the hearing.

The present question of whether the recent increases in supply are short-term or whether they indicate a trend toward increasing supplies points up the need for a supply-demand adjustment. With a supply-demand adjustment, regardless of whether present supply conditions prove to be temporary or permanent, prices will be automatically adjusted accordingly.

The decision to provide for a more accentuated seasonality in uniform prices payable to producers by the introduction of a method of deductions and repayments will result in such variation

in uniform prices seasonally that indications by the supply-demand adjustment of an excess of milk in the spring or a shortage in the fall and winter will not indicate a need for the greater change (downward in the spring and upward in the fall) in the prices which have heretofore been provided in association with given departures from the normal supply-demand relationship. Consequently the variation in the supply-demand adjustment applicable for the different seasons of the year may be eliminated and a system of differentials which is uniform throughout the year (for each percentage of deviation from normal) may be substituted. It is therefore concluded that the supply-demand adjustment in each month should be computed in the same manner presently used for January, February, March, August, and September.

The limitations presently applicable to the amount of the supply-demand adjustment during July, August, September, December, January, and February have not yet affected the amount of the supply-demand adjustment in any month; however, conceivably such limitations could result in prices not consistent with market conditions and could prevent timely price adjustments. The need for these limitations will be reduced somewhat by the removal of the seasonal variation in the supply-demand adjustment.

In computing the price per hundredweight of butterfat in Class I milk, the average price of butter (as presently computed) should be multiplied by 130 rather than 135. Such a reduction in the price of Class I butterfat will cause a complementary increase in the price of skim milk in Class I milk.

Analysis of the market requirements (for Class I and Class II uses) for butterfat and skim milk and the butterfat and skim milk content of producer milk shows that in the last six years butterfat supplies in producer milk have been in better adjustment with butterfat requirements than skim milk supplies in producer milk have been to skim milk requirements in 49 of the 72 months; however, in only 4 of the 12 Novembers and Decembers in this 6 year period has this been so. The fact that the butterfat content of producer milk varies seasonally through narrower limits than the skim milk content of producer milk explains this apparent conflict in the comparisons. In November and December when supplies of producer milk are lowest in relation to market needs pricing should be such that supplies of producer milk and the components of butterfat and skim milk are in close alignment with market requirements. Since market data indicate that supplies of butterfat during these months are relatively greater than supplies of skim milk, some reduction in the price of butterfat and a complementary increase in the price of skim milk should tend to bring market requirements for butterfat and skim milk into closer alignment with the butterfat and skim milk content of producer milk. To the extent that the lower price for butterfat and the higher price for skim milk is reflected in returns to producers, the butterfat content of producer milk will tend to decline.

The price per hundredweight of butterfat in Class II milk should be reduced to the average price of butter multiplied by 125 in order to maintain the present relationship between prices for Class I and Class II butterfat.

Pricing of Class III milk. The price per hundredweight of butterfat in Class III milk should be the average price of butter multiplied by 120 during each of the months of March through August, and by 122 during each of the other months of the year, except that the price of butterfat made into butter should be $5.00 per hundredweight less during each of the months of March through August and $3.60 per hundredweight less during each of the other months of the year than the price for other Class III butterfat. This will result in a reduction in the butterfat value of Class III milk other than milk used for butter of about $3.35 per hundredweight of butterfat (or about 11 cents per hundredweight of milk) during August and March and of about $2.00 per hundredweight of butterfat (or about 6 cents per hundredweight of milk) during each of the months of September through February; and a reduction of $1.40 per hundredweight of butterfat (4.9 cents per hundredweight of milk) in the butterfat value of Class III milk used for butter during each of the months of March through August.

A reduction of 20 cents per hundredweight of skim milk (19.3 cents per hundredweight of milk) should be made in the skim milk value of Class III milk during August and each of the months of October through March.

With a market-wide pooling arrangement such as is used in the Dayton-Springfield order, handlers may move reserve supplies of milk into those outlets which yield the greatest net returns to handlers without regard to whether such outlets will yield the greatest returns to producers. The relationship between the price of Class III butterfat used to make butter and other Class III butterfat should be such that the net returns to handlers for butterfat made into butter is not greater than the net returns for butterfat made into other Class III products.

Pursuant to the present Class III pricing provisions, the price of butterfat made into butter is 3.6 cents per pound less than the price of butterfat made into other Class III products during April, May, June, and July, and about 7 cents per pound less in all other months. This results from a seasonally higher price during August through March for Class III butterfat other than that made into butter with no corresponding higher price for butterfat made into butter.

Evidence in the record indicates that the gross return which handlers can obtain for products other than butter made from Class III milk during August through March is probably less in relation to gross returns for such products during April through July than the seasonal increase in the Class III price. Accordingly, under the present pricing provisions net returns to handlers for butterfat made into butter during August through March is higher in relation to net returns to handlers for other Class III butterfat than during April, May, June, and July and there is insufficient price incentive for handlers to seek outlets other than butter for Class III butterfat.

Market statistics show that in each of the last four years except 1950 the proportion of the total Class III butterfat which was made into butter was higher during the eight months of January, February, March, August, September, October, November, and December than during the four months of April, May, June, and July when the volume of Class III milk was greatest. In 1952 outlets were found in June for 283,535 pounds of butterfat in Class III products other than butter but in October only 89,109 pounds of Class III butterfat were disposed of for products other than butter; and the volume of Class III butterfat made into butter was greater in October than in June. It is recognized that some of the Class III outlets, notably ice cream, are highly seasonal; but it is doubtful if all Class III outlets other than butter would be seasonal to the extent of the experience of recent years with more appropriate price relationships between butterfat made into butter and other Class III butterfat.

The reduction herein proposed during August through March for Class III butterfat other than that made into butter and for Class III skim milk during January, February, March, August, October, November and December should make producer milk more competitive with other milk for ice cream and other products in which large quantities of non-producer milk are used. The reduction herein proposed during March through August for butterfat made into butter will result in a price which appears to be more in line with the value to handlers of butterfat made into butter. Considerable quantities of butter have been made during these months and it appears likely that continued use of some butterfat in butter will be necessary during those months. Retention of the present price level for butterfat made into butter during the period September through February recognizes the possibility that handlers may not be able to find outlets in products other than butter for all of the reserve supplies of butterfat, but with the price herein proposed for other Class III butterfat the incentive for handlers to seek outlets other than butter should be considerably greater than in the past.

Over the past two years the Class III price changes herein proposed would have resulted in prices which averaged 7 cents lower during March through August and 21 cents higher during the other months than the average of the prices paid at the 18 locations in Wisconsin and Michigan which are used in computing the basic formula price; 1 cent lower during March through August and 26 cents higher during the other months than the average price paid for milk by 10 condenseries in Ohio;

and 17 cents lower during March through August and 16 cents higher during the other months than the average of the prices paid by creameries in Ohio for milk used in making butter and creamery by-products. These comparisons indicate that the Class III pricing provisions proposed should result in prices which are in fairly close alignment with prices paid for milk by manufacturing plants not subject to milk marketing orders.

Seasonal variation in returns to producers. The seasonal variation in returns to producers should be widened and should be graduated over more months.

In recent years changes in seasonal variation in returns to Dayton-Springfield producers have been made primarily through the Class I and Class II prices with the major seasonal changes in April and August. It was proposed that all seasonal variation in the Class I and Class II prices except the seasonal variation in the basic formula price be removed and that the desired seasonal variation in returns to producers be effected by retaining until October, November, and December a portion of the value paid by handlers for milk delivered during April, May, June, and July. This method of seasonal variation appears appropriate for the Dayton-Springfield market and should be adopted.

In the last seven years the seasonal variation in the supply of producer milk has narrowed considerably; however, in 1952 supplies during November, the month of shortest supplies, were less than three-fourths what they were in May, the month of greatest supplies. Seasonal variation to this extent is accompanied by serious problems in disposing of the seasonal reserve supplies. Any reduction in the seasonality of supplies is desirable because it reduces the problems of disposing of these seasonal reserves. Wider seasonal variation in returns to producers should provide further encouragement for producers to increase their production when returns are high and to reduce their production when returns are low.

In some of the major markets with which Dayton competes for supplies prices paid farmers for milk have varied seasonally through wider ranges than Dayton-Springfield uniform prices. The wider seasonal variation herein proposed should result in closer relationships throughout the year between producer prices in Dayton-Springfield and competing markets.

It is concluded that the amount per hundredweight of producer milk to be retained for disbursement in October, November, and December should be 20 cents in April, 35 cents in May and June, and 30 cents in July.

The total amount so retained should be divided into three equal parts with one part to be included in the moneys to be distributed among producers for each of the months of October, November, and December. This will result in seasonal changes in producer returns in January, April, May July August, and October in addition to the changes in returns resulting from seasonal variation in utilization.

Any amendment resulting from this proceeding cannot become effective on April 1, 1953, but should become effective as soon as possible thereafter. Since the conclusions concerning seasonal variation in returns to producers contemplate the retaining until October, November, and December of a portion of the value paid by handlers for milk during April, making any amendment to effectuate this conclusion effective later than April 1, 1953, will tend for this year to reduce the effectiveness of such amendment. In order to reduce this abrogation to a minimum, any amendment which is issued in this proceeding should be made effective as soon as possible without regard to whether such effective date is the first day of a month, and handlers should be given the option of either (1) reporting receipts and utilization as required separately for the portion of the month during which any amendment resulting from this proceeding is effective and maintaining, retaining, and making available to the market administrator records and facilities as required to permit verification of such reports, or (2) prorating total receipts and utilization on the basis of the number of days during which any amendment resulting from this proceeding is in effect.

The seasonal variation in returns to producers during 1953 under this arrangement should not be materially different from what is herein concluded to be appropriate and should more nearly approximate the seasonal variation herein concluded to be appropriate than if the order were not amended.

Producer butterfat differential. The producer butterfat differential should be reduced during the months of August through March to the same level in relation to the average price of butter as it is during April, May, June, and July—specifically the producer butterfat differential should be the average price of butter multiplied by .12 each month of the year. At the present time the average price of butter is multiplied by .125 during each of the months of August through March.

It has been found above that during October, November, and December, the months of shortest supplies, butterfat supplies in relation to needs are greater than skim milk supplies in relation to needs. Better balance between butterfat and skim milk content of producer milk and the respective needs for butterfat and skim milk can be obtained by increasing the needs for butterfat or by reducing the supplies of butterfat or by a combination of both. Price reductions proposed herein for Class I and Class II butterfat should tend to increase demand for butterfat. A reduction in the producer butterfat differential should tend to reduce the supply of butterfat because the price paid producers will be reduced for producers whose average butterfat content of milk exceeds 3.5 percent and will be increased for producers whose average butterfat content of milk is less than 3.5 percent.

The producer butterfat differential in Cincinnati has been considerably lower than the Dayton-Springfield butterfat differential since 1945. Prior to 1945 they were about the same. From 1946 to 1951 the average butterfat content of producer milk in Cincinnati dropped from 4.095 to 3.934 percent. During this period the average butterfat content of producer milk in the Dayton-Springfield market dropped only slightly from 4.03 to 3.96 percent. These comparisons indicate the possibility that some producers whose butterfat content is low may have shifted from the Dayton-Springfield market to Cincinnati.

The idea was expressed at the hearing that the producer butterfat differential should be based upon the value of butterfat to handlers. It cannot be denied that this idea has considerable merit. Conclusions in this decision pursue this idea to some extent—that is, a reduction in the producer butterfat differential would be accompanied by a reduction in the price of butterfat to handlers.

The complete adoption of this idea is not feasible at this time because of the competitive effects of Cincinnati and other markets.

Payment dates and rate of advance payment. The dates on which handlers are required to make payments to producers or cooperative associations should not be changed.

At present the time intervening between the announcement of the uniform price and the date upon which handlers are required to make payment for milk is four days on payments to cooperative associations and five days on payments to producers. A proposal to advance payment dates two days was considered. Such advance of payment date apparently would cause some hardship on handlers when a week-end or holiday falls within the intervening time between announcement of the uniform price and the date of payment. Reducing this intervening time would also present new problems of scheduling payments into and out of the producer settlement fund. Testimony in the record indicates that handlers are presently cooperating with the cooperative association to make payments earlier than the dates now prescribed by the order when it is feasible.

The rate of advance or partial payments should be related quarterly to uniform price in the preceding month. The order presently requires a partial payment of at least $2.00 per hundredweight of milk. The level of uniform prices has increased substantially since this rate was adopted. Handlers have been paying a higher rate for some time. Quarterly changes in the rate of partial payment should result in keeping the rate in line with current price levels, but will prevent monthly changes and certain problems which might be associated with frequent changes in the rate.

The following schedule of partial payments in relation to the uniform price in the preceding month will maintain a closer relationship between partial payments and final payments and should at the same time protect handlers against the possibility of over-payment:

If the uniform price for the preceding month was—	Rate of partial payment should be—
Under $1.00	$0.00
$1.00–$1.99	.50
$2.00–$2.99	1.00
$3.00–$3.99	2.00
$4.00–$4.99	3.00
$5.00–$5.99	4.00
$6.00–$6.99	5.00
$7.00 or over	6.00

Shrinkage allowance. On bulk transfers of milk (in the form of milk) between handlers the receiving or transferee handler should be allowed shrinkage (in Class III) not to exceed one percent of the volume transferred, and the shrinkage allowance to the transferor handlers should be reduced accordingly.

Movement of milk via tank truck between handlers has increased considerably in recent years. In the seasons of heavy production large volumes of milk are transferred from other handlers to the cooperative association, and in the seasons of lowest production large volumes of milk are transferred from the cooperative association to other handlers. The present shrinkage provisions which allow no shrinkage (in Class III) to the receiving or transferee handler have tended to militate against the establishment of more economic handing of milk through transfers.

This change in shrinkage allowance on transferred milk is intended to apply only to milk which was physically received by one handler and then transferred to another handler without having been processed in any way.

To determine the amount of allowable shrinkage on these transfers, gross shrinkage at the transferee handler's plant and at the transferor handler's plant should be computed. At the transferee handler's plant the transferred volume should be multiplied by 0.4, and the gross shrinkage should then be prorated between this result and all other volumes on which shrinkage is allowed at that plant. At the transferor handler's plant the transferred volume should be multiplied by 0.6, and the gross shrinkage should then be prorated between this result and all other volumes on which shrinkage is allowed at this plant. If the shrinkage so prorated exceeds the maximum allowable shrinkage (in Class III) then shrinkage should be classified as Class III only to the extent of the maximum allowance.

In the event a handler has received other source milk on which shrinkage is allowable, there should be no maximum limit on the amount of shrinkage of such milk that may be classified as Class III after shrinkage has been prorated as explained above. The present shrinkage and allocation provisions classify excess shrinkage on other source milk as Class I and give producer milk preferential allocation to such volumes. The proposed method appears to be more equitable under prevailing market conditions.

Other source milk obtained by a cooperative association. From the evidence in the record, the cooperative association in the market appears to be effectively allocating available supplies of producer milk among handlers. When supplies of producer milk are not adequate to meet handlers' needs for milk, the cooperative association arranges supplies of other source milk to supplement producer milk supplies. In most instances these supplies of other source milk can be handled most economically by bulk movement from their source directly to the plants of handlers. However, provisions of the order for allocating classes of utilization to other source milk are such that a quantity of other source milk moved to one handler's plant would probably be classified differently than if the same quantity of other source milk were moved to another handler's plant. In order to facilitate the most economical handling of other source milk, it appears appropriate under prevailing conditions to consider other source milk which a cooperative association arranges to have delivered from its source directly to another handler's plant as having been first received by the cooperative association and then transferred to the handler's plant for allocation and classification purposes. Then classification can be established pursuant to the transfer provisions of the order.

Powers of the market administrator. The order should specifically authorize the market administrator to recommend amendments to the order. In actual practice, he has done so from time to time. Most other orders do give such authority to the market administrator.

Extension of this authority to the market administrator does not mean that the established procedure for amending an order can be circumvented. Any amendment to the order recommended by the market administrator must still be subjected to the procedural requirements of any other amendment before it can become effective.

General findings. (a) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply of and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and in the order, as amended, and as hereby proposed to be further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity, specified in a marketing agreement upon which a hearing has been held.

Rulings. The rulings contained in the recommended decision in this proceeding are affirmed.

All of the exceptions filed to the recommended decision in this proceeding have been considered in making the findings and reaching the conclusions of this decision. Certain of the exceptions were adopted to some extent. To the extent that exceptions were not adopted, they are denied for the reasons set forth in support of the conclusions of this decision.

Determination of representative period. The month of January 1953 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of an order amending the order, as amended, regulating the handling of milk in the Dayton-Springfield, Ohio, marketing area in the manner set forth in the attached amending order is approved or favored by producers who, during such period, were engaged in the production of milk for sale in the marketing area specified in such order as amended.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled "Marketing Agreement Regulating the Handling of Milk in the Dayton-Springfield, Ohio, Marketing Area," and "Order Amending the Order, as Amended, Regulating the Handling of Milk in the Dayton-Springfield, Ohio, Marketing Area," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

It is hereby ordered, That all of this decision except the attached marketing agreement be published in the FEDERAL REGISTER and that the findings and conclusions, general findings, and order amending the order to be so published as a part of this decision shall include the full text of the findings and conclusions, general findings, and order amending the order. The regulatory provisions of said marketing agreement are identical with those contained in the order, as amended, and as hereby proposed to be further amended by the attached order which will be published with this decision.

This decision filed at Washington, D. C., this 17th day of April 1953.

[SEAL] E. T. BENSON,
Secretary of Agriculture.

Order[1] Amending the Order, as Amended, Regulating the Handling of Milk in the Dayton-Springfield, Ohio, Marketing Area

§ 971.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determina-

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

tions may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900) a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Dayton-Springfield, Ohio, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply of and demand for milk in the marketing area, and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity, specified in a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof the handling of milk in the Dayton-Springfield, Ohio, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, and the aforesaid order, as amended, is hereby further amended as follows:

DEFINITIONS

AUTHORITY: §§ 971.1 to 971.97 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c.

DEFINITIONS

§ 971.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.)

§ 971.2 *Secretary.* "Secretary" means the Secretary of Agriculture or such other officer or employee of the United States authorized to exercise the powers and to perform the duties of the said Secretary of Agriculture.

§ 971.3 *Dayton - Springfield, Ohio, marketing area.* "Dayton-Springfield, Ohio, marketing area" hereinafter called the "marketing area," means the cities of Dayton, Oakwood, and Springfield; the townships of Bath and Miami, in Greene County; the townships of Miami, Jefferson, Madison, Van Buren, Harrison, Butler, Mad River, and Washington, in Montgomery County; and German township in Clark County; all in the State of Ohio.

§ 971.4 *Person.* "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 971.5 *Producer* "Producer" means any person who produces, under a dairy farm inspection permit or other equivalent certification issued by the appropriate health authority in the marketing area, milk which is (a) received at a plant from which Class I milk is disposed of in the marketing area, or (b) caused by a handler to be delivered to a plant from which Class I milk is not disposed of in the marketing area.

§ 971.6 *Handler* "Handler" means (a) any person, except a person who receives other source milk only, with respect to milk (including any milk from his own farm production) received by him at a plant from which Class I milk is disposed of in the marketing area, or (b) any cooperative association, or other person included under paragraph (a) of this section, with respect to any milk produced under a dairy farm inspection permit or other equivalent certification issued by the appropriate health authority in the marketing area which such cooperative association or person causes to be delivered to a plant from which Class I milk is not disposed of in the marketing area. Milk caused to be delivered by a handler in accordance with paragraph (b) of this section shall be considered as having been received by such handler. With respect to milk caused by a handler to be delivered directly from the producer's farm to another handler, the handler to be considered as receiving such milk shall be determined by written agreement between the two handlers filed with the market administrator on or before the 5th day after the end of the first month during which it becomes effective, or in the absence of such an agreement, shall be determined by the market administrator.

§ 971.7 *Other source milk.* "Other source milk" means all skim milk and butterfat received by a handler other than in (a) milk received from producers or associations of producers, and (b) any nonfluid milk product received and disposed of in the same form.

§ 971.8 *Cooperative association.* "Cooperative association" means any cooperative association of producers which, as determined by the Secretary, has (a) its entire activities under the control of its members, and (b) meets the standards set forth in the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act."

§ 971.9 *Department of Agriculture.* "Department of Agriculture" means the United States Department of Agriculture or any other Federal agency as may be authorized to perform the price reporting functions specified in § 971.50.

MARKET ADMINISTRATOR

§ 971.20 *Designation.* The agency for the administration of this subpart shall be a market administrator, who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by and shall be subject to removal at the discretion of the Secretary.

§ 971.21 *Powers.* The market administrator shall have the power:

(a) To administer this subpart in accordance with its terms and provisions;

(b) To receive, investigate and report to the Secretary complaints of violations of the provisions of this subpart;

(c) To make rules and regulations to effectuate the terms and provisions of this subpart; and

(d) To recommend to the Secretary amendments to this subpart.

§ 971.22 *Duties.* The market administrator, in addition to the duties hereinafter described, shall:

(a) Within 45 days following the date on which he enters upon his duties execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties as market administrator and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary.

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions of this subpart;

(c) Pay, out of the funds provided by § 971.77, (1) the cost of his bond and of the bonds of those of his employees who handle funds entrusted to the market administrator, (2) his own compensation, and (3) all other expenses, except those incurred under § 971.78, which will necessarily be incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(d) Keep such books and records as will clearly reflect the transactions provided for in this subpart, and, upon request by the Secretary, surrender the same to his successor or to such other person as the Secretary may designate;

(e) Publicly disclosed to handlers and producers, unless otherwise directly by the Secretary, the name of any person who, within 2 days after the day upon which he is required to perform such acts, has not made (1) reports pursuant to § 971.30, or (2) payments pursuant to §§ 971.70, 971.71, 971.74 and 971.76;

(f) Furnish such information and verified reports as the Secretary may request, and submit his books and records to examination by the Secretary at any and all times;

(g) On or before the 12th day after the end of each month, report to each cooperative association for such month, with respect to each handler, the utilization, on a pro rata basis, of milk of producers, payment for which is to be made to such cooperative association pursuant to § 971.70; and

(h) Audit all reports and payments by each handler by inspection of such handler's records and of the records of any person upon whose utilization the classification of milk depends.

REPORTS, RECORDS, AND FACILITIES

§ 971.30 *Monthly report of receipts and utilization.* On or before the 7th day after the end of each month, each handler shall report to the market administrator for each plant, with respect to all milk and milk products received during such month, in the detail and on forms prescribed by the latter, (a) the butterfat tests, quantities, and sources of all milk, skim milk, cream, and other milk products received; (b) the utilization thereof; and (c) such other information with respect to such receipts and utilization as the market administrator may request.

§ 971.31 *Other reports.* (a) Each handler who receives at his plant only milk from his own farm production or from other handlers shall make reports to the market administrator at such time and in such manner as the market administrator may request.

(b) On or before the 22d day after the end of each month each handler shall submit to the market administrator such handler's producer payroll for such month, which shall show (1) the total pounds of milk received from each producer and association of producers and the total pounds of butterfat contained in such milk, (2) the amount of payment to each producer and association of producers, and (3) the nature and amount of the deductions and charges involved in the payments referred to in subparagraph (2) of this paragraph.

§ 971.32 *Records and facilities.* Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business, such accounts and records of his operations and such facilities as, in the opinion of the market administrator, are necessary to verify, or to establish the correct data with respect to (a) the utilization, in whatever form of all skim milk and butterfat received; (b) the weights, samples, and tests for butterfat content of all milk and milk products previously received or utilized or currently being received or utilized; and (c) payments to producers and associations of producers.

§ 971.33 *Retention of records.* All books and records required to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain, except that all such books and records pertaining to transactions before August 1, 1946, shall be retained until October 1, 1949: *Provided,* That if, within such three-year period or before October 1, 1949, whichever is applicable, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 971.40 *Basis of classification.* All skim milk and butterfat contained in milk, or in skim milk, cream, and other milk products received by a handler at a plant from which Class I milk is disposed of in the marketing area or caused to be delivered in the manner described in § 971.6 (b) shall be classified by the market administrator in the classes set forth in § 971.41.

§ 971.41 *Classes of utilization.* Subject to the conditions set forth in §§ 971.42 and 971.43, the classes of utilization shall be:

(a) Class I milk shall be all skim milk and butterfat (1) disposed of in fluid form (except that which was dumped or disposed of for livestock feeding) as milk, including reconstituted milk, skim milk, buttermilk, flavored milk, or flavored milk drinks; (2) used to produce concentrated milk (excluding those products commonly known as evaporated milk and condensed milk) for fluid consumption; and (3) not specifically accounted for as Class II milk or Class III milk.

(b) Class II milk shall be all skim milk and butterfat disposed of (1) in fluid form as sweet or sour cream; and (2) in fluid form as any mixture of cream and milk (or skim milk) which contains 8 percent or more but less than 18 percent of butterfat.

(c) Class III milk shall be all skim milk and butterfat specifically accounted for as (1) used to produce, or disposed of as, ice cream, ice cream mix, frozen cream, condensed milk, condensed skim milk, cottage cheese, any other milk product not specified in Class I and Class II milk, or any commercially manufactured food product; (2) having been dumped or disposed of for livestock feeding; and (3) plant shrinkage as computed pursuant to § 971.45.

§ 971.42 *Responsibility of handlers and reclassification of milk.* (a) In establishing the classification of skim milk and butterfat as required in §§ 971.41 and 971.43 the burden rests upon the handler to account for all skim milk and butterfat received by him and to prove to the market administrator that such skim milk or butterfat should not be classified as Class I milk.

(b) Any skim milk or butterfat classified in one class shall be reclassified if later used or disposed of (whether in original or other form) by a handler in another class, in accordance with such later use or disposition.

§ 971.43 *Transfers.* (a) Subject to the conditions set forth in § 971.42, skim milk or butterfat when transferred in fluid form as milk, skim milk, flavored milk, flavored milk drinks, or buttermilk, by a handler who receives milk from producers or from an association of producers shall be classified (1) in the class as agreed upon by both handlers if transferred to a handler other than as described in subparagraph (2) of this paragraph, subject to verification by the market administrator; (2) as Class I milk, if transferred to a handler who receives no milk from producers or from an association of producers other than such handler's own farm production; and (3) as Class I milk if transferred by a handler to a person other than a handler who distributes milk in fluid form or manufactures milk products, unless the market administrator is permitted to audit the records of receipts and utilization at the plant of the buyer, in which case the classification of all skim milk and butterfat received at the plant of the buyer shall be determined and the skim milk and butterfat transferred by the handler shall be allocated to the highest use remaining after subtracting, in series beginning with Class I milk, receipts of skim milk and butterfat at the plant of the buyer directly from dairy farmers who the market ad-

ministrator determines constitute the regular source of supply for the plant of the buyer.

(b) Subject to the conditions set forth in § 971.42, skim milk and butterfat when transferred in fluid form as cream from a handler who receives milk from producers or from an association of producers shall be classified (1) in the class as agreed upon by both handlers if transferred to a handler other than as described in subparagraph (2) of this paragraph, subject to verification by the market administrator; (2) as Class II milk if transferred to a handler who receives no milk from producers or from an association of producers other than such handler's own farm production; and (3) as Class II milk if transferred by a handler to a person other than a handler who distributes cream in fluid form or manufactures milk products: *Provided,* That if the selling handler on or before the 7th day after the end of the month during which the transfer was made furnishes to the market administrator a statement which is signed by the buyer and the seller that such skim milk and butterfat was used as a product covered by Class I milk or Class III milk, such skim milk and butterfat shall be classified accordingly, subject to verification by the market administrator.

(c) Other source milk caused by a cooperative association to be delivered from the plant of a person not a handler to the plant of a handler other than such cooperative association shall be considered as a transfer from the cooperative association to the handler, and shall be classified accordingly pursuant to paragraphs (a) and (b) of this section and § 971.44 (j) (1) and (3) if the cooperative association and the handler operating the plant to which such other source milk was caused by the cooperative association to be delivered both so indicate in their reports filed pursuant to § 971.30.

§ 971.44 *Computation of the skim milk and butterfat in each class.* For each month the market administrator shall correct for mathematical and for other obvious errors the report submitted by each handler for such month and compute the respective amounts of skim milk and butterfat from milk of producers and of associations of producers in Class I milk, Class II milk, and Class III milk, as follows:

(a) Determine the handler's total receipts by adding together the total pounds of milk, skim milk, and cream received, and the pounds of butterfat and skim milk used to produce all other milk products received;

(b) Determine the total pounds of butterfat contained in the receipts computed pursuant to paragraph (a) of this section;

(c) Determine the total pounds of skim milk contained in the receipts computed pursuant to paragraph (a) of this section;

(d) Determine the total pounds of butterfat in Class I milk by: (1) Computing the sum of the pounds of butterfat disposed of in each of the several items of Class I milk; and (2) adding all other butterfat not specifically accounted for as Class II milk or Class III milk;

(e) Determine the total pounds of skim milk in Class I milk by: (1) Computing the sum of the pounds (not including flavoring materials) disposed of as each of the several items of Class I milk; (2) subtracting the result obtained in paragraph (d) (1) of this section; and (3) adding all other skim milk not specifically accounted for as Class II milk or Class III milk;

(f) Determine the total pounds of butterfat in Class II milk by computing the sum of the pounds of butterfat disposed of in each of the several items of Class II milk;

(g) Determine the total pounds of skim milk in Class II milk by: (1) Computing the sum of the pounds of milk, skim milk, and cream disposed of in each of the several items of Class II milk; and (2) subtracting the result obtained in paragraph (f) of this section;

(h) Determine the total pounds of butterfat in Class III milk by: (1) Computing the sum of the pounds of butterfat used to produce each of the several items of Class III milk; and (2) adding the plant shrinkage of butterfat computed pursuant to § 971.45 (c)

(i) Determine the total pounds of skim milk in Class III milk by: (1) Computing the sum of the pounds of milk, skim milk, cream, and other milk products which were used to produce each of the several items of Class III milk; (2) subtracting the result obtained in paragraph (h) (1) of this section; and (3) adding the plant shrinkage of skim milk computed pursuant to § 971.45 (c), and

(j) Determine the classification of milk received from producers and from associations of producers by:

(1) Subtracting, respectively, from the total pounds of skim milk and butterfat in each class, in sequence beginning with Class III milk; the pounds of skim milk and butterfat received as other source milk;

(2) Subtracting, respectively, from the remaining pounds of skim milk and butterfat in each class in sequence beginning with Class III milk, the pounds of skim milk and butterfat received from any handler who receives no milk from producers or from associations of producers other than such handler's own farm production;

(3) Subtracting, respectively, from the remaining pounds of skim milk and butterfat in each class, the pounds of skim milk and butterfat received from handlers other than those described in subparagraph (2) of this paragraph, and used in such class; and

(4) Subtracting, respectively, from the remaining pounds of skim milk and butterfat in each class, in sequence beginning with Class III milk, the pounds of skim milk and butterfat by which the total pounds, respectively, in all classes exceed the pounds of milk received from producers and from associations of producers.

§ 971.45 *Shrinkage.* The amount of skim milk and butterfat at each plant to be classified as Class III milk pursuant to § 971.41 (c) (3) shall be computed as follows:

(a) If the sum of the quantities of skim milk determined pursuant to § 971.44 (e) (g), and (i) equals or exceeds the quantity of skim milk determined pursuant to § 971.44 (c), no skim milk shall be classified as Class III milk pursuant to § 971.41 (c) (3), and the computations described in paragraphs (c) through (l) of this section shall not be made wtih respect to skim milk;

(b) If the sum of the quantities of butterfat determined pursuant § 971.44 (d) (f) and (h) equals or exceeds the quantity of butterfat determined pursuant § 971.44 (b) no butterfat shall be classified as Class III milk pursuant to § 971.41 (c) (3), and the computations described in paragraphs (c) through (l) of this section shall not be made with respect to butterfat;

(c) Determine gross shrinkage of skim milk by deducting the sum of the quantities of skim milk determined pursuant to § 971.44 (e), (g), and (i) from the quantity of skim milk determined pursuant to § 971.44 (c) and the gross shrinkage of butterfat by deducting the sum of the quantities of butterfat determined pursuant to § 971.44 (d), (f) and (h) from the quantity of butterfat determined pursuant to § 971.44 (b)

(d) Deduct from the quantity of butterfat and skim milk determined pursuant to § 971.44 (b) and (c), respectively any skim milk and butterfat, respectively contained therein which was not physically received at the plant for which shrinkage is being computed;

(e) Deduct from the remaining quantities of butterfat and skim milk any butterfat and skim milk, respectively, which was transferred in bulk to another plant operated by the same or another handler;

(f) Deduct from the remaining quantities of butterfat and skim milk any butterfat and skim milk, respectively, which was received in bulk from another plant operated by the same or another handler;

(g) Deduct from the remaining quantities of butterfat and skim milk any butterfat and skim milk, respectively, which was received from another plant operated by the same or another handler, and which was not deducted pursuant to paragraph (f) of this section;

(h) Deduct from the remaining quantities of butterfat and skim milk any butterfat and skim milk, respectively, which is other source milk;

(i) Multiply the quantity of butterfat and the quantity of skim milk deducted pursuant to paragraph (e) of this section by 0.6;

(j) Multiply the quantity of butterfat and the quantity of skim milk deducted pursuant to paragraph (f) of this section by 0.4,

(k) Prorate the gross shrinkage of butterfat and skim milk determined pursuant to paragraph (c) of this section among the following: (1) The quantities of butterfat and skim milk, respectively, deducted pursuant to paragraph (h) of this section, (2) the quantities of butterfat and skim milk, respectively,

remaining after making the deductions pursuant to paragraph (h) of this section, (3) the quantities of butterfat and skim milk, respectively, resulting from the computations made pursuant to paragraph (i) of this section, and (4) the quantities of butterfat and skim milk, respectively, resulting from the computations made pursuant to paragraph (j) of this section; and

(l) The amount of butterfat and skim milk to be classified as Class III milk pursuant to § 971.41 (c) (3) shall be the quantity of the butterfat and skim milk, respectively, prorated to the quantities of butterfat and skim milk, respectively, described in paragraph (k) (1) plus the smaller of the following:

(1) The sum of the quantities of butterfat and skim milk, respectively, in gross shrinkage prorated to the quantities of butterfat and skim milk, respectively, described in paragraph (k) (2) (3) and (4) of this section; or (2) 2½ percent of the sum of the quantities of butterfat and skim milk, respectively, described in paragraph (k) (2) (3) and (4) of this section.

MINIMUM PRICES

§ 971.50 *Basic formula price.* The basic formula price per hundredweight of milk to be used in determining the Class I milk and Class II milk prices for the month as provided by §§ 971.51 and 971.52 shall be the highest of the prices per hundredweight of milk of 3.5 percent butterfat content determined pursuant to paragraphs (a) (b), or (c) of this section:

(a) The market administrator shall compute an average of the basic (or field) prices ascertained to have been paid for milk of 3.5 percent butterfat content received during such month at the following places for which prices are reported to the market administrator by the companies listed below or by the Department of Agriculture:

Company and Location

Borden Co., Black Creek, Wis.
Borden Co., Greenville, Wis.
Borden Co., Mount Pleasant, Mich.
Borden Co., New London, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Jefferson, Wis.
Carnation Co., Clifton, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Sparta, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(b) The market administrator shall compute a price as provided below in this paragraph:

(1) Calculate the average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter during such month as reported by the Department of Agriculture for the Chicago market, and multiply such average by 6;

(2) Add 2.4 times the arithmetical average of the prices determined per pound of "Cheddars" on the Wisconsin Cheese Exchange at Plymouth, Wisconsin, for the trading days that fall within such month as published by the Department of Agriculture;

(3) Divide by 7 and to the resulting amount add 30 percent; and

(4) Multiply the amount computed in subparagraph (3) of this paragraph by 3.5.

(c) The market administrator shall compute a price by adding together the plus amounts calculated pursuant to subparagraphs (1) and (2) of this paragraph:

(1) From the average price of butter computed pursuant to paragraph (b) (1) of this section, subtract 3 cents, add 20 percent thereof, and then multiply by 3.5; and

(2) Calculate the arithmetical average of the carlot prices per pound of roller process nonfat dry milk solids in barrels for human consumption at Chicago for the weeks ending within such month as reported by the Department of Agriculture, deduct 5.5 cents, and multiply the result by 8.2.

§ 971.51 *Class I milk prices.* The price to be paid by each handler f. o. b. his plant for that portion of skim milk and butterfat in milk received from producers and from associations of producers which is classified as Class I milk shall be computed by the market administrator as follows:

(a) Add to the basic formula price $1.20 during each month of the year, and add or subtract a "supply-demand adjustment" computed as follows:

(1) Divide the total gross volume of Class I milk and Class II milk (less interhandler transfers and less bulk sales of Class I milk in excess of 1,000 pounds during each month by each handler to persons other than handlers outside the marketing area) in the second and third months preceding by total receipts of milk from producers for the same months, multiply the result by 100, and round to the nearest whole number. The result shall be known as the current supply-demand percentage.

(2) Compute a net deviation percentage by subtracting from the current supply-demand percentage computed pursuant to subparagraph (1) of this paragraph, the base period ratio shown below:

Month for which price is being computed	Months used to compute ratio	Base period ratio (percent)
January	October and November	89
February	November and December	87
March	December and January	87
April	January and February	84
May	February and March	79
June	March and April	74
July	April and May	69
August	May and June	63
September	June and July	63
October	July and August	70
November	August and September	76
December	September and October	82

(3) Determine the amount of the amount of the supply-demand adjustment from the following schedule:

If net deviation percentage is—	*Supply-demand adjustment is—*
+12 or over	+33
+9 or +10	+23
+6 or +7	+20
+3 or +4	+10
+1 or −1	0
−3 or −4	−19
−6 or −7	−20
−9 or −10	−23
−12 or under	−32

When the difference from the base period Class I and Class II utilization percentage does not fall within the tabulated brackets, the adjustment shall be determined by the adjacent bracket which is the same as or nearest to the bracket used in the previous month.

(b) The price per hundredweight of Class I butterfat shall be the average price of butter computed pursuant to § 971.50 (b) (1) multiplied by 130.

(c) The price per hundredweight of Class I skim milk shall be computed by (1) multiplying the price for butterfat pursuant to paragraph (b) of this section by 0.035; (2) subtracting such amount from the sum obtained in paragraph (a) of this section; (3) dividing such net amount by 0.965; and (4) rounding off to the nearest full cent.

§ 971.52 *Class II milk prices.* The price to be paid by each handler f. o. b. his plant for that portion of skim milk and butterfat in milk received from producers and associations of producers which is classified as Class II milk shall be computed by the market administrator as follows:

(a) Subtract $0.30 from the Class I price.

(b) The price for Class II butterfat shall be the average price of butter computed pursuant to § 971.50 (b) (1) multiplied by 125.

(c) The price of Class II skim milk shall be computed by (1) multiplying the price for butterfat pursuant to paragraph (b) of this section by 0.035; (2) subtracting such amount from the sum obtained in paragraph (a) of this section; (3) dividing such net amount by 0.965; and (4) rounding off to the nearest full cent.

§ 971.53 *Class III milk prices.* The prices to be paid by each handler f. o. b. his plant for that portion of skim milk and butterfat in milk received from producers and from associations of producers which is classified as Class III milk shall be computed by the market administrator as follows:

(a) Calculate the price per hundredweight of butterfat by multiplying the average price of butter computed pursuant to § 971.50 (b) (1) for the month for which prices are being computed by 120 for each of the months of March through August and by 122 for each of the other months of the year: *Provided,* That the price per hundredweight of butterfat made into butter shall be calculated by multiplying such average price of butter by 120 and by subtracting therefrom $5.00 for each of the months of March through August and $3.60 for each of the other months of the year.

(b) The price per hundredweight of skim milk shall be computed by dividing the amount computed pursuant to

§ 971.50 (c) (2) for the month for which prices are being computed by 0.965: *Provided,* That for each of the months of March through August, 20 cents shall be substracted from the amount so computed.

HANDLER'S OBLIGATION AND UNIFORM PRICE

§ 971.60 *Value of milk.* The value of milk of each handler for each month shall be a sum of money computed by the market administrator by:

(a) Multiplying by the applicable class prices for skim milk and butterfat, pursuant to §§ 971.51, 971.52 and 971.53, the amounts of skim milk and butterfat in each class which were received either in milk from producers or from an association of producers during such month, and adding together such amounts;

Provided, That if an amendment to this subpart in proceedings under Docket No. AO 175–A10 becomes effective on a date other than the first day of a month and changes the computation of the value of milk in any way, the revised computation shall be applicable to a percentage of the skim milk and butterfat in total receipts and utilization during the month equal to the percentage that the number of days the amendment is in effect during such month bears to the total number of days in such month, or at the option of each handler, to the volume of skim milk and butterfat actually received during the portion of the month the amendment is in effect as shown by a separate report filed pursuant to § 971.30 for that portion of the month.

(b) Adding an amount equal to the value of any skim milk or butterfat subtracted pursuant to § 971.44 (j) (4) at the applicable price for the class (or classes) from which such skim milk or butterfat was subtracted;

(c) Adding an amount computed by multiplying the differences between the Class III price and the price of the class of disposition by the respective quantities of any skim milk or butterfat disposed of by a handler as Class I or Class II milk which was received as milk, skim milk or cream from a handler who receives no milk from producers or an association of producers other than from his own farm production; and

(d) Adding or subtracting, as the case may be, any amount necessary to correct any errors discovered by the market administrator in the verification of reports or payments of such handler for any previous month which result in payments due the producer-settlement fund or the handler.

§ 971.61 *Notification.* On or before the 12th day after the end of each month the market administrator shall notify each handler of the value of his milk for such month as computed in accordance with § 971.60 and of the amount by which such value is greater or less than the total amount required to be paid by such handler pursuant to § 971.70.

§ 971.62 *Computation of the uniform price.* For each month the market administrator shall compute, with respect to milk received by handlers from producers and from associations of producers, a uniform price per hundredweight by:

(a) Combining into one total the values for skim milk and butterfat of all handlers, except those of handlers who failed to make payments required pursuant to § 971.74 for the preceding month;

(b) Subtracting for each of the months of April, May, June and July an amount computed by multiplying the total hundredweight of milk received from producers during such month by 20 cents in April, 35 cents in May and June, and 30 cents in July: *Provided,* That if an amendment to this subpart in proceedings under Docket No. AO 175–A10 becomes effective during any of these months on a date other than the first day of a month, the amount to be deducted for such month shall be the applicable rate multiplied by the total hundredweight of milk considered pursuant to the proviso of § 971.60 (a) as having been received from producers during the portion of the month such amendment is in effect.

(c) Adding for each of the months of October, November, and December an amount computed by dividing the total amount of the obligated balance in the producer-settlement fund pursuant to § 971.73 (b) on September 30 immediately preceding by three;

(d) Adding an amount representing not less than one-half the unobligated balance in the producer-settlement fund;

(e) Subtracting, if the weighted average butterfat test of all pooled milk is greater than 3.5 percent, or adding if the weighted average butterfat test of such milk is less than 3.5 percent, an amount computed by multiplying the difference between such weighted average butterfat test and 3.5 by the butterfat differential computed pursuant to § 971.72;

(f) Dividing by the hundredweight of pooled milk; and

(g) Subtracting not less than 4 cents nor more than 5 cents.

§ 971.63 *Announcement of prices.* (a) On or before the 6th day after the end of each month the market administrator shall notify all handlers and make public announcement of the class prices for skim milk and butterfat received from producers or from associations of producers during such month.

(b) On or before the 12th day after the end of each month the market administrator shall notify all handlers and make public announcement of the uniform price computed pursuant to § 971.62 for such month, and of the butterfat differential computed pursuant to § 971.72 for such month.

§ 971.70 *Time and method of final payment.* Each handler shall pay on or before the 17th day after the end of each month to each producer for all milk received from such producer during such month at not less than the uniform price, subject to the butterfat differential announced pursuant to § 971.63 and less the amount of the payment made pursuant to § 971.71. *Provided,* That a total amount not less than the sum of the amounts payable to individual producers from which a cooperative association has received written authorization to collect payment shall be paid to such association on or before the 16th day after the end of such month.

§ 971.71 *Partial payments.* On or before the 27th day of each month each handler shall make payment to each producer, except as set forth in paragraph (b) of this section, for all milk received from such producer during the first 15 days of such month. Prices at which such payment shall be made shall be computed quarterly to be applicable to payments to be made in January through March, April through June, July through September, and October through December on the basis of the uniform price for the month immediately preceding the beginning of the quarter as follows:

If the uniform price for the preceding month is—	*Partial payment per hundredweight shall be—*
Under $1.00	$0.00
$1.00–$1.99	.50
$2.00–$2.99	1.00
$3.00–$3.99	2.00
$4.00–$4.99	3.00
$5.00–$5.99	4.00
$6.00–$6.99	5.00
7.00 or over	6.00

Provided, That a total amount not less than the sum of the amounts payable to individual producers from which a cooperative association has received written authorization to collect payment shall be paid to such association on or before the 26th day of such month.

§ 971.72 *Butterfat differential.* For each month the market administrator shall compute to the nearest one-tenth cent a butterfat differential by multiplying the average price of butter as computed pursuant to § 971.50 (b) (1) by 0.12.

§ 971.73 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" which shall function as follows:

(a) All payments made by handlers pursuant to § 971.74 shall be deposited in this fund, and all payments made to handlers pursuant to § 971.75 shall be made out of this fund: *Provided,* That the market administrator shall offset any such payment due any handler against payments due from such handler;

(b) All amounts subtracted pursuant to § 971.62 (b) shall be deposited in this fund and shall remain therein as an obligated balance until it is withdrawn for the purpose of effectuating § 971.62 (c), and

(c) The difference between the amount added pursuant to § 971.62 (d) and the total amounts resulting from the subtraction pursuant to § 971.62 (g) shall be deposited in, or withdrawn from, this fund, as the case may be to effectuate § 971.62 (d) and (g)

§ 971.74 *Payments to the producer-settlement fund.* On or before the 14th day after the end of each month, each handler shall pay to the market administrator the amount by which the total value of his milk for such month is greater than the sum required to be paid by such handler pursuant to § 971.70.

§ 971.75 *Payments out of the producer-settlement fund.* On or before the 16th day after the end of each month the market administrator shall pay to each handler the amount by which the sum required to be paid producers by such handler pursuant to § 971.70 is greater than the total value of the milk of such handler for such month: *Provided,* That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. No handler who, on the 16th day after the end of any month, has not received full payment for such month from the market administrator pursuant to this section shall be deemed to be in violation of § 971.70 if he reduces his payments per hundredweight thereunder by not more than the amount of the reduction in payment from the market administrator.

§ 971.76 *Adjustment of errors.* Whenever verification by the market administrator of the payment by a handler to a producer or to an association of producers, pursuant to §§ 971.70 or 971.71, discloses payment of less than is required, the handler shall make up such payment not later than the time for making payment pursuant to §§ 971.70 or 971.71 next following such disclosure.

§ 971.77 *Expense of administration.* As his pro rata share of the expense incurred pursuant to § 971.22 (c) each handler shall pay to the market administrator, on or before the 14th day after the end of each month, 2 cents per hundredweight, or such lesser amount as the Secretary may from time to time prescribe, with respect to receipts during such month of:

(a) Milk from producers (including such handler's own production) and

(b) Other source milk classified as Class I milk and Class II milk.

§ 971.78 *Marketing services*—(a) *Deductions.* Except as set forth in paragraph (b) of this section, each handler shall deduct an amount not exceeding 6 cents per hundredweight, or such lesser amount as the Secretary from time to time may prescribe, from the payments made pursuant to § 971.70, with respect to all milk received by such handler during each month from producers (not including such handler's own production) and from associations of producers, and shall pay such deductions to the market administrator on or before the 14th day after the end of such month. Such moneys shall be used by the market administrator to verify weights, samples, and tests of such milk received by handlers and to provide such producers and associations of producers with market information, such services to be performed in whole or in part by the market administrator or by an agent engaged by him and responsible to him.

(b) *By cooperative associations.* In the case of producers for whom a cooperative association is actually performing as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may have been authorized by such producers and, on or before the 16th day after the end of the month, pay over such deductions to the cooperative association rendering such services.

§ 971.90 *Application of provisions.* Sections 971.50 through 971.94 shall not apply to a handler who receives at his plant only milk of his own farm production or from other handlers.

§ 971.91 *Effective time.* The provisions of this subpart, or any amendment to this subpart, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated, pursuant to § 971.92.

§ 971.92 *Suspension or termination.* The Secretary may suspend or terminate this subpart or any provision of this subpart, whenever he finds that this subpart or any provisions of this subpart, obstructs, or does not tend to effectuate, the declared policy of the act. This subpart shall terminate, in any event, whenever the provisions of the act authorizing it cease to be in effect.

§ 971.93 *Continuing power and duty of the market administrator.* (a) If, upon the suspension or termination of any or all provisions of this subpart, there are any obligations arising under this subpart, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided,* That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(b) The market administrator, or such other person as the Secretary may designate, shall (1) continue in such capacity until discharged by the Secretary, (2) from time to time account for all receipts and disbursements, and, when so directed by the Secretary, deliver all funds or property on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary may direct, and (3) if so directed by the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant hereto.

§ 971.94 *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions of this subpart, the market administrator, or such person as the Secretary may designate shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this subpart, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 971.95 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this subpart.

§ 971.96 *Separability of provisions.* If any provision of this subpart, or the application thereof to any person or circumstances, is held invalid, the remainder of the subpart, and the application of such provision to other persons or circumstances, shall not be affected thereby.

§ 971.97 *Termination of obligations.* The provisions of this section shall apply to any obligation under this subpart for the payment of money irrespective of when such obligation arose, except an obligation involved in an action instituted before August 1, 1949, under section 8c (15) (A) of the act or before a court.

(a) The obligation of any handler to pay money required to be paid under the terms of this subpart shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this subpart, to make available to the market administrator or his representatives all books and records required by this subpart to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which all such books and records pertaining to

such obligations are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this subpart to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this subpart shall terminate two years after the end of the month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

[F. R. Doc. 53-3519; Filed, Apr. 21, 1953; 8:49 a. m.]

NOTICES

DEPARTMENT OF JUSTICE

Office of Alien Property

MARGARETHA SCHMITT

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Margaretha Schmitt, Bolanden, Germany, Claim No. 42179; $4,651.25 in the Treasury of the United States.

Executed at Washington, D. C., on April 16, 1953.

For the Attorney General.

[SEAL] PAUL V MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 53-3522; Filed, Apr. 21, 1953; 8:50 a. m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

VESICULAR EXANTHEMA, A DISEASE OF SWINE

DECLARATION AND STATEMENT OF POLICY

Vesicular exanthema, an acute infectious disease resembling foot-and-mouth disease but affecting only swine, has occurred in sporadic form in California since 1932. Within the past 10 months, however, it has spread into 40 States and the District of Columbia. Cooperative State-Federal control and eradication efforts have managed to restrict the disease in most States to only a few lots of hogs, usually those fed raw garbage. At the present time there are known infected and exposed animals in 16 States.

Nevertheless, in several States there has been considerable spread, and the disease has caused loss to growers, shippers, packers, and others. In addition to these losses, each occurrence of the disease creates uncertainty lest it be an outbreak of the more dangerous foot-and-mouth disease, which would affect not only swine, but also cattle, sheep, and goats. The damaging effects of vesicular exanthema continue to disrupt the swine industry. It is therefore the objective of the Department of Agriculture to completely eradicate this disease as rapidly as possible.

To achieve eradication, representatives of the livestock industry and State and Federal officials recognize that more effective procedures must be employed than heretofore. Such procedures have been worked out in concert with representatives of the industry and State governments.

The purpose of this declaration and statement of policy is to record the acceptance and endorsement by this Department of these procedures which are, in brief:

1. Each suspected outbreak must be promptly reported to the State animal disease control officials, and immediately isolated to prevent spread. The disease must be promptly identified.

2. Infected and exposed animals must be disposed of promptly by approved State-Federal procedures.

3. The Department will join with the States in the payment of fair indemnities to owners, except in the case of an outbreak after June 1, 1953, associated with the feeding of raw garbage, or in cases of non-compliance with quarantine or other requirements.

4. All premises exposed to the disease must be effectively cleaned and disinfected.

5. Garbage-fed swine and products derived therefrom must be controlled to prevent spread of the disease. Such control must include the routine inspection of commercial garbage-feeding premises, and the effective cooking of the garbage used thereon, or, if the garbage is not cooked, the special processing of the meat and other products of swine fed on raw garbage.

6. Cars, trucks, other vehicles, and yards, pens, and other facilities used in handling swine must be kept clean and subjected to regular disinfection as necessary.

Authority for most control and eradication measures within the States rests with State governments. The Department will assist the States in carrying out such measures. In addition, the Department will require appropriate cleaning and disinfecting of cars, trucks, other vehicles, and yards, pens, and other facilities used in moving swine interstate, and also will control the interstate movements of garbage-fed swine and products derived therefrom.

It has been, and will continue to be, the practice of the Department in issuing necessary interstate quarantine orders to offer as little restraint of normal movements as possible by limiting the area under quarantine to the smallest practicable unit, relying upon State action to prevent spread of the disease from infected premises. However, to protect those States which are taking adequate control and eradication measures, the Department may find it necessary to place a State-wide quarantine on swine and swine products not specially processed from other States, in which swine are affected with the disease, that do not have effective measures. It is hoped that such action will not often be necessary. The purpose of this document is to give all States advance information of the gravity of the situation and the intentions of the Department.

Copies of this document are being sent to the Governor of each State and the Territories of Hawaii, Alaska, Puerto Rico, and the Virgin Islands, with a request that necessary actions be taken immediately to assist and cooperate in effectuating a uniform program for the eradication of vesicular exanthema.

Done at Washington, D. C., this 17th day of April 1953.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[F. R. Doc. 53-3526; Filed, Apr. 21, 1953; 8:51 a. m.]

Production and Marketing Administration

WAGE RATES IN SUGARCANE INDUSTRY IN FLORIDA

NOTICE OF HEARING AND DESIGNATION OF PRESIDING OFFICERS

Pursuant to the authority contained in subsections (c) (1) and (c) (2) of section 301 of the Sugar Act of 1948, as amended (61 Stat. 929; 7 U. S. C. Sup. 1131) notice is hereby given that a public hearing will be held in Clewiston, Florida, in the Sugarland Park Auditorium on May 6, 1953, beginning at 10:00 a. m.

The purpose of this hearing is to receive evidence likely to be of assistance to the Secretary of Agriculture in deter-

mining (1) pursuant to the provisions of section 301 (c) (1) of the act, fair and reasonable wage rates for persons employed in the production, cultivation, or harvesting of sugarcane in Florida during the period July 1, 1953 through June 30, 1954, on farms with respect to which applications for payment under the act are made, and (2) pursuant to the provisions of section 301 (c) (2) of the act, fair and reasonable prices for the 1953 crop of sugarcane to be paid under either purchase or toll agreements by processors who, as producers, apply for payments under the act.

In the interest of obtaining the best possible information, all interested persons are requested to appear at the hearing to express their views and present appropriate data in regard to wages and prices. While testimony on all points relative to the subject matters of the hearing is desired, it is especially requested that in connection with fair and reasonable wage rates, interested parties be prepared to make recommendations on the subjects of compensable working time and the furnishing to workers of equipment necessary to perform work assignments.

To assist interested parties in making recommendations with respect to these items, the following specifications are suggested for consideration:

Compensable working time. Compensable working time includes all time which the worker spends in the performance of his duties except time taken out for meals during the work day. Compensable working time commences at the time workers are required to start work. If the worker is required to report to a place other than the field, such as an assembly point, stable, tractor shed, etc., transit time to the field is compensable working time. Any work directly related to the principal work performed by the worker, such as servicing equipment, is compensable working time. Time of workers while being transported from a central recruiting point or labor camp to the farm is not compensable working time. Compensable time ends upon completion of work in the field except for operators of mechanical equipment, drivers of animals or any other classes of workers who are required to return to a central point on the farm. In such cases, return transit time is compensable time.

Equipment necessary to perform work assignment. The worker shall not be required to pay for or furnish any equipment in the performance of any work assignment. However, a charge may be made for equipment furnished any worker, if necessary to insure reimbursement for the cost of such equipment in the event of its loss or destruction through negligence of the worker. Upon the return of the equipment, the worker shall be entitled to a refund of the entire charge. Equipment includes, but is not limited to, all hand and mechanical tools and special wearing apparel, such as boots and raincoats, deemed necessary to discharge the work assignment.

The hearing, after being called to order at the time and place mentioned herein, may be continued from day to day within the discretion of the presiding officers and may be adjourned to a later day or to a different place without notice other than the announcement thereof by the presiding officers.

A. A. Greenwood, Ward S. Stevenson, and Wilmer M. Grayson are hereby designated as presiding officers to conduct either jointly or severally the foregoing hearing.

Issued this 17th day of April 1953.

[SEAL] LAWRENCE MYERS,
Director, Sugar Branch.

[F. R. Doc. 53-3527; Filed, Apr. 21, 1953; 8:51 a. m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

PACIFIC WESTBOUND CONFERENCE ET AL.

NOTICE OF AGREEMENTS FILED WITH THE BOARD FOR APPROVAL

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916, as amended.

(1) Agreement No. 57-40 between the member lines of the Pacific Westbound Conference, modifies the basic agreement of that Conference (No. 57) to provide that the General Chairman shall determine whether or not the question at issue is of sufficient importance to warrant a telephone and/or telegraph vote except that, in cases involving freight rates, approval of the Rate Committee of the originating District must be obtained. Agreement No. 57 presently provides that the General or District Chairman shall determine whether or not the question at issue is of sufficient importance to warrant a telephone and/or telegraph vote.

(2) Agreement No. 192-2, between the member lines of the Deli-Pacific Rate Agreement, modifies the basic agreement of that conference (No. 192) by removing provision for observance of rates fixed by the Deli-New York Rate Agreement on cargo to U. S. Gulf ports transported direct or with transhipment at U. S. Pacific Coast ports.

(3) Agreement No. 7903 between Kawasaki Kisen Kaisha, Ltd., and Pope & Talbot, Inc., and Pacific Argentine Brazil Line, Inc., covers the transportation of cargo under through bills of lading from designated areas in the Far East to Puerto Rico, with transhipment at specified U. S. Pacific Coast ports.

(4) Agreement No. 7904 between Grace Line Inc., and Panama Canal Company covers the transportation of cargo under through bills of lading from Pacific Coast ports of United States and Canada, to Port-au-Prince, Haiti, with transhipment at Cristobal, C. Z.

(5) Agreement No. 7906, between Gulf & South American Steamship Co., Inc., and Pacific Argentine Brazil Line, Inc., provides for the booking and transportation of passengers on tours of North and South America using any combination of services of both parties.

(6) Agreement No. 7907 between Grace Line Inc., and Gulf and South American Steamship Co., Inc., covers the transportation of cargo under through bills of lading from U. S. Atlantic and Gulf Ports to West Coast of South America ports, with transhipment at Buenaventura, Colombia, Callao, Peru, Antofagasta or Valparaiso, Chile. Upon approval this agreement will supersede and cancel Agreement No. 7784.

(7) Agreement No. 7980-3, between the member lines of the North Atlantic Mediterranean Freight Conference, modifies the basic agreement of that conference (No. 7980) by excepting from the territorial scope of the conference ports in Israeli.

Interested parties may inspect these agreements and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D. C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to any of the agreements and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: April 17, 1953.

By order of the Federal Maritime Board.

[SEAL] A. J. WILLIAMS,
Secretary.

[F. R. Doc. 53-3528; Filed, Apr. 21, 1953; 8:52 a. m.]

National Production Authority

[Suspension Order 53, Docket No. 42, Modification 2]

WINTER-SEAL CORP. ET AL.

MODIFICATION

Lewis Whiteman, Esquire, Attorney at Law, New York, N. Y., for the Respondents; Robert H. Winn, Esquire, Asst. General Counsel, NPA, for the United States.

This case comes before the Deputy Chief Hearing Commissioner of the National Production Authority, upon a petition of Don S. Rogers, Joseph T. Rosenberg, Irvin A. Rogers, Marshall Rogers, and Edward J. Kassak, as individuals and as stockholders of Rogers Industries, Inc., a corporation whose place of incorporation is not disclosed, for a modification of the terms of a suspension order which was entered against them as officers and officials of one Winter-Seal Corporation, a corporation, and individually. The grounds claimed for modification are that respondents had conceived and concluded plans, before issuance of the statement of charges in the Winter-Seal case, to engage in a new business venture; viz., to produce aluminum extrusions; and had purchased a building and an extrusion press, tools, die heater, billet heater, aging oven, and other equipment and installations necessary to that venture before issuance of the suspension order herein.

The basis of their petition for modification is that the suspension order in the Winter-Seal case provides only for recoupment of 488,806 pounds of aluminum on account of which 326,000 pounds has assertedly already been re-

paid; and that to extend the restrictions of the suspension order to prevent the individual petitioners from going ahead "as stockholders in a new business" would in effect be to extend the restrictions beyond the intent of the original order, and to make it inequitable and punitive in character.

Winter-Seal Corporation, a corporation organized under the laws of Michigan, and Don S. Rogers, as president (and formerly secretary) and individually, Joseph T. Rosenberg, as vice president and individually, Irvin A. Rogers, as treasurer and individually, Marshall Rogers, as secretary who succeeded Don S. Rogers and individually, and Edward J. Kassak, as general superintendent and individually, officers and superintendent of said Winter-Seal Corporation, were respondents in an administrative adversary proceeding which was brought against them before a hearing commissioner of the National Production Authority. In that proceeding the corporation and its officers and superintendent were charged with excess use of aluminum in the manufacture of storm windows and screens, in the months of January March, April, May and June, 1951, in violation of NPA Order M–7, and as amended; and during the third quarter and fourth quarter, 1951, and the first quarter, 1952, in violation of CMP Regulation No. 1.

At the conclusion of these proceedings a suspension order (Suspension Order 53, Docket No. 42) was issued on January 13, 1953, in which the hearing commissioner made certain findings of fact. In those findings, the hearing commissioner determined that Winter-Seal Corporation, a corporation, was in excess use of aluminum in manufacture of storm windows and screens under the Priorities System (NPA Order M–7, as amended) (Findings of Fact, 1) and was in excess use of aluminum in the production of storm windows and screens as "B-Products" under the Controlled Materials Plan (CMP Regulation No. 1) (Findings of Fact, 2, 3, and 4) It was also found that prior to the investigation on which the charges were based, records sufficient to meet the requirements of CMP Regulation No. 1 had not been kept; but that prior to the date of hearing the respondents were maintaining a system of records which apparently complied with the regulation.

As to the officers and superintendent of the corporation, the hearing commissioner found:

6. (a) The respondent, Edward J. Kassak, supervised and directed the excess use of aluminum shown by the first finding of fact.

(b) The evidence fails to show that any of the other four individual respondents directed or supervised the excess use of aluminum shown by this finding.

(c) All of the individual respondents had a part in supervising and directing the excess use of aluminum shown by the second, third, and fourth findings of fact.

The conclusions of the hearing commissioner were consistent with his findings of fact; but he found certain inequities which would arise if he ordered recoupment to the full extent of the excess uses of aluminum. For reasons stated affirmatively in his suspension order, he fixed recoupment to be obtained from the respondents at 488,806 pounds.

The restrictions imposed by the suspension order were as follows:

In order to correct the unauthorized use of aluminum found herein, and in order to prevent future violations of National Production Authority regulations and orders by the respondents,

It is accordingly ordered: 1. That all allocations and allotments of aluminum under the control of the National Production Authority be withdrawn and withheld from the respondent, Winter-Seal Corporation, its successors and assigns, and from all individual respondents herein as officers of said corporation and individually, until the quantity of aluminum thus withheld and recouped by the National Production Authority amounts to 488,806 pounds.

2. That all priority assistance be withheld from said Winter-Seal Corporation and from all individual respondents herein until recoupment shall have been completed, as provided in the preceding paragraph, in the amount of 488,806 pounds.

The question to be now determined is whether the suspension order should be modified as to the respondents as individuals, stockholders in a new corporation organized to conduct an entirely different business. If the individual respondents had been engaged in both "commercial extrusion" production, and combination storm window and screen "manufacture," before or during the pendency of the administrative adversary proceedings in this case, the issuance of a suspension order against Winter-Seal Corporation, and Don S. Rogers, Joseph T. Rosenberg, Irvin A. Rogers, Marshall Rogers, and Edward J. Kassak as its officers and individually, would have been proper only as to the storm window and screen operation, in the absence of any showing that the "commercial extrusion" business was in violation of National Production Authority regulations, orders, and directives. For purposes of NPA assistance and controls, commercial extrusion production is a separate and distinct process involving the making only of a controlled material (both extrusion billets and commercial extrusions produced therefrom are controlled materials) The granting of an AM number to a manufacturer to produce "commercial extrusions" under NPA Order M–5, the directives to aluminum producers whereby a "commercial extruder" procures extrusion billets, the production quantities thereof, and the amounts which may be made into commercial extrusions, were and are subject to the supervision and control of Aluminum and Magnesium Division, National Production Authority.

Under the Priorities System, commercial extrusion production was not subject to regulation under NPA Order M–7, under which Winter-Seal Corporation and its officers and superintendent were charged with some of the excess use of aluminum in manufacture of storm windows and screens in this case. (Cf. Order M–7, sections 26.23, 26.24 [sections 3, 4]) It was subject to NPA Order M–5.

Under the Controlled Materials Plan, the production of commercial extrusions remained an activity supervised by Aluminum and Magnesium Division under CMP Regulation No. 1 and NPA Order M–5, and amendments. The manufacture of storm windows and screens became the manufacture of a B-product, subject to regulation under CMP Regulation No. 1, and was supervised and controlled by Builders Hardware Branch, Building Materials Division, National Production Authority.

Each of these activities was separate and distinct from the other, and a violation in respect of one of these activities would not in and of itself constitute a violation of the other. In such circumstances an attempt to spread the restrictions of the suspension order into a new field and restrict the activities of a new corporation to enter upon making "commercial extrusions" would seem to be clearly beyond the intent and meaning of the present suspension order. It would likewise extend the effect of the suspension order into a field in which there was and could have been no violation during the time of the violations, charges, hearing, and order in the Winter-Seal case. That effect would become punitive.

The respondents Don S. Rogers, Joseph T. Rosenberg, Irvin A. Rogers, Marshall Rogers, and Edward J. Kassak, seek relief only as individuals, and only to the extent that they are stockholders in a new corporation (Rogers Industries, Inc.) engaging in a new and distinct business. No modification is sought by them as officers and individuals in respect of the activities and manufacturing processes of Winter-Seal Corporation, the manufacturer of combination storm windows and screens. To the extent that recoupment of aluminum for this product (combination storm windows and screens) remains to be effected, the original suspension order can and should remain in effect, subject only to the modification thereof issued March 16, 1951, under the provisions of Direction 20 to CMP Regulation No. 1, and Direction 10 to Revised CMP Regulation No. 6.

For the reasons stated, the Office of General Counsel, National Production Authority, does not oppose the modification sought herein.

Wherefore, in accordance with the requests of the petition for modification:

It is hereby ordered, That said suspension order be modified to permit Don S. Rogers, Joseph T. Rosenberg, Irvin A. Rogers, Marshall Rogers, and Edward J. Kassak, as stockholders in Rogers Industries, Inc., a corporation, to apply for an AM symbol and number as an "independent fabricator," pursuant to NPA Order M–5, as amended.

And it is further ordered, That said suspension order be modified to permit Don S. Rogers, Joseph T. Rosenberg Irvin A. Rogers, Marshall Rogers, and Edward J. Kassak, as stockholders in Rogers Industries, Inc., a corporation, to file an application for an authorized production schedule on Form NPAF–149, pursuant to NPA Order M–5, as amended.

And is is further ordered, That said suspension order be modified to permit Don S. Rogers, Joseph T. Rosenberg, Irvin A. Rogers, Marshall Rogers, and Edward J. Kassak, as stockholders in Rogers Industries, Inc., a corporation, to

receive from Aluminum and Magnesium Division, National Production Authority, an AM symbol and number for the production of commercial extrusions, and an approved production schedule and a production directive to purchase and procure aluminum billets and to produce commercial extrusions therefrom, all as authorized under National Production Authority Order M-5, as amended.

Issued this 10th day of April 1953 at Washington, D. C.

NATIONAL PRODUCTION AUTHORITY,
By MORRIS R. BEVINGTON,
Deputy Chief Hearing Commissioner

[F. R. Doc. 53-3584; Filed, Apr. 21, 1953; 9:54 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

[Administrative Order 429]

ADMINISTRATOR'S ADVISORY COMMITTEE ON SHELTERED WORKSHOPS

APPOINTMENT

Pursuant to the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060; 29 U. S. C. 201), I, Wm. R. McComb, Administrator of the Wage and Hour Division, United States Department of Labor, do hereby appoint the following persons to constitute the Administrator's Advisory Committee on Sheltered Workshops:

Linton Collins, Washington, D. C.
John M. Convery, National Association of Manufacturers, New York, N. Y.
Mrs. Jane Devereaux, Detroit League for the Handicapped, Detroit, Mich.
Rt. Rev. Msgr. John O'Grady, National Conference of Catholic Charities, Washington, D. C.
Lewis Hines, American Federation of Labor, Washington, D. C.
Edward Hochhauser, Altro Health and Rehabilitation Services, Inc., New York, N. Y.
S. L. Hoffman, S. L. Hoffman Manufacturing Co., New York, N. Y.
Col. J. F. McMahon, Volunteers of America, New York, N. Y.
Harry Read, Congress of Industrial Organizations, Washington, D. C.
Peter J. Salmon, Industrial Home for the Blind, New York, N. Y.
Col. John N. Smith, Jr., Institute for the Crippled and Disabled, New York, N. Y.
Percy J. Trevethan, Goodwill Industries of America, Inc., Washington, D. C.
Miss Louise McGuire, (nonvoting member), Wage and Hour and Public Contracts Divisions, United States Department of Labor, Washington, D. C.

Members of the Committee hereby appointed constitute the full Committee, and all prior appointments to membership on the Committee, made by an administrative order or otherwise, are hereby revoked.

The above persons shall constitute the membership of the Committee until such time as this order is amended or revoked.

The Committee shall perform the functions of the Administrator's Advisory Committee on Sheltered Workshops as provided in Part 525 of the regulations issued under the Fair Labor Standards Act—Employment of Handicapped Clients in Sheltered Workshops (29 CFR Part 525).

Signed at Washington, D. C., this 29th day of November 1952.

WM. R. McCOMB,
Administrator,
Wage and Hour Division.

[F. R. Doc. 53-3502; Filed, Apr. 21, 1953; 8:45 a. m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-996, G-1429, G-1526, G-1816, G-1817, G-1818, G-1916, G-1917, G-1918, G-1919, G-1920, G-1923, G-1924, G-1926, G-1927, G-2111, G-2121, G-2128]

NORTHWEST NATURAL GAS CO. ET AL.

ORDER AMENDING ORDER CONSOLIDATING PROCEEDINGS AND FIXING DATE OF HEARING

In the matters of Northwest Natural Gas Company, Docket Nos. G-996, G-1916, G-1917; Pacific Northwest Pipeline Corporation, Docket No. G-1429; Westcoast Transmission Company, Inc., Docket Nos. G-1526, G-1919, G-1920; Glacier Gas Company, Docket Nos. G-1816, G-1817, G-1818; Northern Natural Gas Company, Docket Nos. G-1918, G-1926, G-1927; Trans-Northwest Gas, Inc., Docket Nos. G-1923, G-1924, G-2111, Colorado Interstate Gas Company, Docket No. G-2121, Colorado-Wyoming Gas Company, Docket No. G-2128.

On April 8, 1953, the Commission consolidated the proceedings on the applications of Colorado Interstate Gas Company in Docket No. G-2121 and of Colorado-Wyoming Gas Company in Docket No. G-2128 with the proceedings in the other matters set forth above for the purpose of hearing, and fixed the date for hearing in Docket Nos. G-2121 and G-2128 to commence April 27, 1953.

Examiner Glen R. Law, who has been designated to preside in the above-entitled matters has other official matters which require his attention on and after April 27, 1953.

The Commission finds: Good cause exists, and it is appropriate in carrying out the provisions of the Natural Gas Act, to amend paragraph (C) of the aforesaid order fixing date of hearing, as hereinafter provided.

The Commission orders: Paragraph (C) of the order issued April 8, 1953, fixing the date for hearing to commence on the applications in Docket Nos. G-2121 and G-2128, be and the same hereby is amended to read as follows:

(C) The hearing upon the applications in Docket Nos. G-2121 and G-2128 shall commence at a time to be fixed by the Presiding Examiner and after all the other applicants in the above-entitled matters shall have presented all matters with regard to their applications to the extent set forth in Paragraphs (A) (i), (A) (ii) and (A) (iii) of the order issued May 28, 1952 specifying the procedure.

Adopted: April 14, 1953.

Issued: April 16, 1953.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 53-3503; Filed, Apr. 21, 1953; 8:45 a. m.]

[Docket No G-2120]

COLORADO INTERSTATE GAS CO.

ORDER AUTHORIZING PRESIDING EXAMINER TO CHANGE DATE OF HEARING

On April 8, 1953, the Commission issued an order fixing April 30, 1953 as the date for hearing to commence on the application of Colorado Interstate Gas Company in Docket No. G-2120.

Examiner Glen R. Law, who has been designated to preside in the above-entitled matter, has other official matters which require his attention on and after April 30, 1953.

The Commission finds: Good cause exists and it is appropriate for carrying out the provisions of the Natural Gas Act to authorize the Presiding Examiner to change the date for hearing in the above matter, as herinafter ordered.

The Commission orders: The Presiding Examiner be and he is hereby authorized to change date fixed for hearing in the above-entitled matter.

Adopted: April 14, 1953.

Issued: April 16, 1953.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 53-3504; Filed, Apr. 21, 1953; 8:45 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-2226]

COMPANIA SWIFT INTERNACIONAL, SOCIEDAD ANONIMA COMERCIAL

NOTICE OF APPLICATION TO STRIKE FROM LISTING AND REGISTRATION, AND OF OPPORTUNITY FOR HEARING

APRIL 15, 1953.

In the matter of Compania Swift Internacional, Sociedad Anonima Comercial (Swift International Company Limited) (A) Deposit Certificates of Bearer Share Certificates for Shares, (B) Bearer Share Certificates for Shares, Par Value 15 Argentine Gold Pesos Per Share; File No. 1-2226.

The New York Stock Exchange, pursuant to section 12 (d) of the Securities Exchange Act of 1934 and Rule X-12D2-1 (b) promulgated thereunder, has made application to strike from listing and registration the Deposit Certificates of Bearer Share Certificates for Shares, and the Bearer Share Certificates for Shares, Par Value 15 Argentine Gold Pesos Per Share of Compania Swift Internacional, Sociedad Anonima Comercial (Swift International Company Limited).

The application alleges that the reasons for striking these securities from listing and registration on this exchange are as follows:

(1) Due to acceptance of an offer for exchange of shares of the above issuer for shares of International Packers Limited, as of March 2, 1953, there remained outstanding in the hands of approximately 160 holders, Deposit Certificates of Bearer Share Certificates for approximately 15,000 shares.

(2) In the opinion of the applicant exchange, further dealings in the above Deposit Certificates of Bearer Share Certificates for Shares are inadvisable in view of (a) the small amount thereof outstanding in the hands of the public after deducting concentrated holdings by International Packers Limited, (b) the limited marketability of the issue over a reasonable period of time, and (c) the inadequacy of the distribution of the issue when considered in the light of the small indicated aggregate market value of the issue outstanding in the hands of others than International Packers Limited.

(3) The Bearer Share Certificates for Shares, Par Value 15 Argentine Gold Pesos per share, constituting the security underlying the Deposit Certificates of Bearer Share Certificates for Shares, were never admitted to dealings on applicant exchange, but were listed and registered to comply with requirement that underlying securities be listed and registered, with the result that the removal of the Deposit Certificates of Bearer Share Certificates for Shares from listing and registration necessitates similar action in respect of this underlying security.

Upon receipt of a request, prior to May 19, 1953, from any interested person for a hearing in regard to terms to be imposed upon the delisting of these securities, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person requesting the hearing and the position he proposes to take at the hearing with respect to imposition of terms or conditions. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application, and other information contained in the official file of the Commission pertaining to this matter.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 53-3506; Filed, Apr. 21, 1953; 8:46 a. m.]

[File Nos. 70-2544, 70-2566]

MIDDLE SOUTH UTILITIES, INC., AND GENTILLY DEVELOPMENT CO., INC.

ORDER REGARDING DISSOLUTION OF A NON-UTILITY SUBSIDIARY

APRIL 15, 1953.

Middle South Utilities, Inc. ("Middle South") a registered holding company, and its wholly owned non-utility subsidiary, Gentilly Development Company, Inc. ("Gentilly"), having filed an amendment to a joint application previously filed under sections 9, 11 (b) (1) 11 (b) (2) 12 (c) and 12 (f) of the Public Utility Holding Company Act of 1935 ("act") and Rules U-42 and U-46 promulgated thereunder with respect to the following proposed transactions which are more fully set forth in the amended application:

On January 12, 1951, pursuant to authorization granted by this Commission by its order dated January 3, 1951 (File No. 70-2544) Gentilly sold its principal asset consisting of a tract of undeveloped real estate in the City of New Orleans, Louisiana to Gentilly Homes, Inc., and W H. Crawford and R. A. Toups for an aggregate purchase price of $900,000. In satisfaction of the purchase price, Gentilly received $90,000 in cash, and two mortgage notes in the aggregate amount of $810,000, both of which had maturity dates of January 12, 1953.

The mortgage securing the above-described notes gave the makers the right to have released from the respective mortgages parcels of property upon payment of specified amounts per unit of property to be released. As payments were made for such releases of property, Gentilly has used such cash to pay liquidating dividends to Middle South as authorized by this Commission's order of March 8, 1951 (File No. 70-2566) All of such dividend payments were made by Gentilly as a return of capital and were charged to capital surplus which was created as a result of the reduction of capital stock authorized by this Commission in 1948. Middle South has credited the dividends received from Gentilly to the carrying value of its investment in Gentilly.

The application states that the notes held by Gentilly have now been paid in full and that the Company's assets consist entirely of cash. At February 28, 1953, Gentilly had a cash balance of $203,161 and its liabilities amounted to $4,433. Middle South and Gentilly request approval by the Commission of a plan providing for the complete liquidation of Gentilly. Under this plan Gentilly shall transfer to Middle South all of Gentilly's assets and Middle South will surrender the stock of Gentilly for cancellation and assume all of Gentilly's liabilities.

Applicants having also requested that the Commission's order contain recitals in accordance with the Internal Revenue Code, as amended, including section 1808 (f) and Supplement R thereof; and said amendment to the application having been filed on March 17, 1953, notice of said filing having been given in the form and manner required by Rule U-23 promulgated pursuant to the act, the Commission not having received a request for hearing within the time specified in said notice, or otherwise, and the Commission not having ordered a hearing thereon; and

The Commission finding that the proposed transactions are in accordance with the applicable standards of the act and that no adverse findings are necessary thereunder, and the Commission deeming it appropriate to grant said joint application, as amended, and also to grant applicants' request for recitals in accordance with the Internal Revenue Code, as amended, including section 1808 (f) and Supplement R thereof:

It is ordered, Pursuant to Rule U-23 and subject to the terms and conditions contained in Rule U-24 that the said joint amended application be, and the same hereby is, granted, effective forthwith; and

It is further ordered and recited, That the proposed transactions are necessary or appropriate to the integration or simplification of the holding company system of which Middle South and Gentilly are members and necessary or appropriate to effectuate the provisions of subsection (b) of section 11 of the Public Utility Holding Company Act of 1935.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 53-3508; Filed, Apr. 21, 1953; 8:46 a. m.]

[File No. 70-3013]

NORTHERN BERKSHIRE GAS CO. ET AL.

ORDER AUTHORIZING SALE OF GAS PROPERTIES AND ISSUANCE OF COMMON STOCK AND ASSUMPTION OF INDEBTEDNESS IN CONNECTION WITH SEPARATION OF ELECTRIC AND GAS PROPERTIES

APRIL 15, 1953.

In the matter of Northern Berkshire Gas Company, Berkshire Gas Company, New England Electric System; File No. 70-3013.

New England Electric System ("NEES") a registered holding company, and its public utility subsidiary, Northern Berkshire Gas Company ("Northern") and Berkshire Gas Company ("Berkshire"), a gas utility company organized December 31, 1951, for the purpose of acquiring Northern's gas properties and business, having filed a joint application-declaration, and amendments thereto, pursuant to sections 6 (a) 6 (b) 7, 9 (a) (1), 10, 12 (d) and 12 (f) of the Public Utility Holding Company Act of 1935 ("act") and Rules U-44 and U-45 promulgated thereunder, with respect to the following proposed transactions:

At the present time, Northern has outstanding 21,945 shares of capital stock, $100 par value, all of which are owned by NEES. Northern proposes to sell its gas properties and business to Berkshire, which company will assume various liabilities of Northern arising out of the gas business, including obligations with respect to outstanding borrowings. Concurrently with the sale, Berkshire will issue 21,200 shares of its capital stock, $25 par value, to NEES. As a result of the sale, Northern, a gas and electric company, will do solely an electric business while Berkshire will do solely a gas business. Northern will change its name to Northern Berkshire Electric Company.

In connection with the proposed sale of its gas properties, Northern proposes to reduce the par value of its capital stock from $100 to $25 per share and to cancel 21,200 shares of the $25 par value stock. Upon the consummation of the proposed transactions, NEES will own 66,580 shares of Northern's stock (100 percent) and 21,200 shares of Berk-

shire's stock (100 percent), the aggregate par value of which ($2,194,500) will be equal to the aggregate par value of NEES' present holding of Northern's outstanding 21,945 shares of capital stock. NEES proposes to record its investment in Northern and in Berkshire in an aggregate amount equal to the recorded value of its present investment in Northern.

The application-declaration states that incidental services in connection with the proposed transactions will be performed, at actual cost, by New England Power Service Company, an affiliated service company, such costs being estimated at $11,500; and total expenses to be borne by applicants-declarants are estimated at $13,400.

By order, dated April 6, 1953, the Department of Public Utilities of The Commonwealth of Massachusetts expressly authorized the transfer of the gas properties by Northern and the acquisition thereof by Berkshire, the issuance of 21,200 shares of common, $25 par value, by Berkshire, and the change of the par value of common stock of Northern from $100 par value to $25 par value and the cancellation of 21,200 shares, $25 par value. Applicants-declarants request that the Commission's order herein become effective upon issuance.

Due notice having been given of the filing of the application-declaration and a hearing not having been requested of or ordered by the Commission; and the Commission finding that the applicable provisions of the act and the rules promulgated thereunder are satisfied and that no adverse findings are necessary, and deeming it appropriate in the public interest and in the interest of investors and consumers that said application-declaration, as amended, be granted and permitted to become effective forthwith without the imposition of terms and conditions, other than those contained in Rule U-24.

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act, that said application-declaration, as amended, be, and it hereby is, granted and permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 53-3507; Filed, Apr. 21, 1953; 8:46 a. m.]

LAWRENCE B. MORRIS

ORDER FOR PROCEEDINGS AND NOTICE OF HEARING

In the matter of Lawrence B. Morris, Albany Post Road, Hyde Park, N. Y.

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 15th day of April 1953.

I. The Commission's public official files disclose that Lawrence B. Morris, hereinafter referred to as registrant, is registered as a broker-dealer pursuant to section 15 (b) of the Securities Exchange Act of 1934.

II. The Records Officer of the Commission has filed with the Commission a statement, a copy of which is attached hereto and made a part hereof,[1] stating that registrant did not file with the Commission reports of his financial condition during the calendar years 1951 and 1952 as required by section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted thereunder.

III. The information reported to the Commission by its Records Officer as set forth in Paragraph II hereof tends, if true, to show that registrant violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section.

IV. The Commission, having considered the aforesaid information, deems it necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted to determine:

(a) Whether the statement referred to in Paragraph II hereof is true;

(b) Whether registrant has wilfully violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section;

(c) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, it is in the public interest to revoke registration of registrant; and

(d) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, pending final determination, it is necessary or appropriate in the public interest or for the protection of investors to suspend the registration of registrant.

V *It is ordered,* That registrant be given an opportunity for hearing as set forth in Paragraph IV hereof on the 15th day of May 1953, at the main office of the Securities and Exchange Commission, located at 425 Second Street NW., Washington 25, D. C., before a Hearing Examiner to be designated by the Commission. On such date the Hearing Room Clerk in Room 193, North Building, will advise the parties and the Hearing Examiner as to the room in which such hearing will be held. The Commission will consider any motion with respect to a change of place of said hearing if said motion is filed with the Secretary of the Commission on or before May 8, 1953. Upon completion of any such hearing in this matter the Hearing Examiner shall prepare a recommended decision pursuant to Rule IX of the rules of practice unless such decision is waived:

It is further ordered, That in the event registrant does not appear personally or through a representative at the time and place herein set or as otherwise ordered, the Hearing Room Clerk shall file with the Records Officer of the Commission a written statement to that effect and thereupon the Commission will take the record under advisement for decision.

This order and notice shall be served on registrant personally or by registered mail forthwith, and published in the FEDERAL REGISTER not later than fifteen (15) days prior to May 15, 1953.

[1] Filed as part of original document.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision upon the matter except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of section 4 (c) of the Administrative Procedure Act, it is not deemed to be subject to the provisions of the section delaying the effective date of any final Commission action.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 53-3509; Filed, Apr. 21, 1953; 8:47 a. m.]

GEORGE R. HOLLAND ASSOCIATES

ORDER FOR PROCEEDINGS AND NOTICE OF HEARING

In the matter of George R. Holland Associates, 405 Pan American Bank Building, Miami 32, Florida.

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 15th day of April 1953.

I. The Commission's public official files disclose that George R. Holland Associates, hereinafter referred to as registrant, is registered as a broker-dealer pursuant to section 15 (b) of the Securities Exchange Act of 1934.

II. The Records Officer of the Commission has filed with the Commission a statement, a copy of which is attached hereto and made a part hereof,[1] stating that registrant did not file with the Commission reports of his financial condition during the calendar year 1952 as required by section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted thereunder.

III. The information reported to the Commission by its Records Officer as set forth in Paragraph II hereof tends, if true, to show that registrant violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section.

IV. The Commission, having considered the aforesaid information, deems it necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted to determine:

(a) Whether the statement referred to in Paragraph II hereof is true;

(b) Whether registrant has wilfully violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section;

(c) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, it is in the public interest to revoke registration of registrant; and

(d) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, pending final determination, it is necessary or appropriate in the public interest or for the protection of investors to suspend the registration of registrant.

V *It is ordered,* That registrant be given an opportunity for hearing as set forth in Paragraph IV hereof on the 15th day of May 1953, at the main office of the Securities and Exchange Commission, located at 425 Second Street NW., Washington 25, D. C., before a Hearing Examiner to be designated by the Commission. On such date the Hearing Room Clerk in Room 193, North Building, will advise the parties and the Hearing Examiner as to the room in which such hearing will be held. The Commission will consider any motion with respect to a change of place of said hearing if said motion is filed with the Secretary of the Commission on or before May 8, 1953. Upon completion of any such hearing in this matter the Hearing Examiner shall prepare a recommended decision pursuant to Rule IX of the rules of practice unless such decision is waived.

It is further ordered, That in the event registrant does not appear personally or through a representative at the time and place herein set or as otherwise ordered, the Hearing Room Clerk shall file with the Records Officer of the Commission a written statement to that effect and thereupon the Commission will take the record under advisement for decision.

This order and notice shall be served on registrant personally or by registered mail forthwith, and published in the FEDERAL REGISTER not later than fifteen (15) days prior to May 15, 1953.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision upon the matter except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of section 4 (c) of the Administrative Procedure Act, it is not deemed to be subject to the provisions of the section delaying the effective date of any final Commission action.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 53-3510; Filed, Apr. 21, 1953; 8:47 a. m.]

L. R. HARRISON

ORDER FOR PROCEEDINGS AND NOTICE OF HEARING

In the matter of L. R. Harrison, 181 E. 93rd Street, New York, N. Y.

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 15th day of April 1953.

I. The Commission's public official files disclose that L. R. Harrison, hereinafter referred to as registrant, is registered as a broker-dealer pursuant to section 15 (b) of the Securities Exchange Act of 1934.

II. The Records Officer of the Commission has filed with the Commission a statement, a copy of which is attached hereto and made a part hereof,[1] stating that registrant did not file with the Commission reports of his financial condition during the calendar years 1951 and 1952 as required by section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted thereunder.

III. The information reported to the Commission by its Records Officer as set forth in Paragraph II hereof tends, if true, to show that registrant violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section.

IV The Commission, having considered the aforesaid information, deems it necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted to determine:

(a) Whether the statement referred to in Paragraph II hereof is true;

(b) Whether registrant has wilfully violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section;

(c) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, it is in the public interest to revoke registration of registrant; and

(d) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, pending final determination, it is necessary or appropriate in the public interest or for the protection of investors to suspend the registration of registrant.

V *It is ordered,* That registrant be given an opportunity for hearing as set forth in Paragraph IV hereof on the 15th day of May 1953, at the main office of the Securities and Exchange Commission, located at 425 Second Street NW., Washington 25, D. C., before a Hearing Examiner to be designated by the Commission. On such date the Hearing Room Clerk in Room 193, North Building, will advise the parties and the Hearing Examiner as to the room in which such hearing will be held. The Commission will consider any motion with respect to a change of place of said hearing if said motion is filed with the Secretary of the Commission on or before May 8, 1953. Upon completion of any such hearing in this matter the Hearing Examiner shall prepare a recommended decision pursuant to Rule IX of the rules of practice unless such decision is waived:

It is further ordered, That in the event registrant does not appear personally or through a representative at the time and place herein set or as otherwise ordered, the Hearing Room Clerk shall file with the Records Officer of the Commission a written statement to that effect and thereupon the Commission will take the record under advisement for decision.

This order and notice shall be served on registrant personally or by registered mail forthwith, and published in the FEDERAL REGISTER not later than fifteen (15) days prior to May 15, 1953.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision upon the matter except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of section 4 (c) of the Administrative Procedure Act, it is not deemed to be subject to the provisions of the section delaying the effective date of any final Commission action.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 53-3511; Filed, Apr. 21, 1953; 8:47 a. m.]

[1] Filed as part of original document.

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 27000]

PIG IRON FROM ALABAMA TO TRUNK LINE TERRITORY

APPLICATION FOR RELIEF

APRIL 16, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for carriers parties to schedule listed below.

Commodities involved: Pig iron, carloads.

From: Birmingham, Ala., and points grouped therewith, Alabama City, Attalla, and Gadsden, Ala.

To: Burlington, Florence, Fish House, Riverside, and Stevens, N. J., and Marcus Hook, Pa., and other points in Delaware, Maryland, New Jersey, Pennsylvania, and Virginia.

Grounds for relief: Rail and water-rail competition and circuitous routes.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, I. C. C. No. 1136, Supp. 65.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD, *Acting Secretary.*

[F. R. Doc. 53-3460; Filed, Apr. 20, 1953; 8:47 a. m.]

[4th Sec. Application 28002]

CEMENT FROM PENNSYLVANIA TO IOWA AND WYOMING

APPLICATION FOR RELIEF

APRIL 16, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by C. W Boin, Agent, for carriers parties to schedule listed below.

Commodities involved: Cement and related articles, carloads.

From: Northampton, Navarro, and York, Pa.

To: Casper Air Base (Natrona County) Wyo., and Armour, Iowa.

Grounds for relief: Rail competition, circuity, grouping, and to apply rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: C. W. Boin, Agent, I. C. C. No. A-970, Supp. 8.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Acting Secretary.*

[F. R. Doc. 53-3463; Filed, Apr. 20, 1953; 8:47 a. m.]

[4th Sec. Application 28003]

ASPHALT ROOFING SATURANT AND ROOFING ASPHALT FROM BLAKELY TO ENSLEY, ALA.

APPLICATION FOR RELIEF

APRIL 16, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for the Alabama, Tennessee and Northern Railroad Company and other carriers.

Commodities involved: Liquid asphalt roofing saturant and liquid oxidized roofing asphalt, carloads.

From: Blakely, Ala.

To: Ensley, Ala.

Grounds for relief: Competition with rail carriers, circuitous routes, and to meet intrastate rates.

Schedules filed containing proposed rates: W. P. Emerson, Jr., Agent, I. C. C. 408, Supp. 59.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD, *Acting Secretary.*

[F. R. Doc. 53-3464; Filed, Apr. 20, 1953; 8:48 a. m.]

[4th Sec. Application 28004]

SAND FROM TENNESSEE TO OFFICIAL AND WESTERN TRUNK-LINE TERRITORIES

APPLICATION FOR RELIEF

APRIL 16, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for carriers parties to schedule listed below.

Commodities involved: Sand, carloads.

From: Lipe, Sawyers Mill, and Hollow Rock, Tenn.

To: Points in official, Illinois, and western trunk-line territories.

Grounds for relief: Competition with rail carriers, circuitous routes, and to maintain grouping.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, I. C. C. No. 998, Supp. 230.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Acting Secretary.*

[F. R. Doc. 53-3465; Filed, Apr. 20, 1953; 8:48 a. m.]

[4th Sec. Application 28005]

MOTOR-RAIL-MOTOR RATES ON NEW YORK, NEW HAVEN AND HARTFORD RAILROAD BETWEEN NEW ENGLAND TERRITORY AND OTHER POINTS IN THE UNITED STATES

APPLICATION FOR RELIEF

APRIL 17, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by The New York, New Haven and Hartford Railroad Company and motor carriers listed in the application.

Involving: Motor-rail-motor rates for the transportation of freight between points in New England territory, on the one hand, and points in the United States, on the other.

Grounds for relief: Competition with motor carriers.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Acting Secretary.*

[F. R. Doc. 53-3512; Filed, Apr. 21, 1953; 8:48 a. m.]

[4th Sec. Application 28006]

COCOA OR CHOCOLATE SYRUP BETWEEN POINTS IN OFFICIAL TERRITORY

APPLICATION FOR RELIEF

APRIL 17, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by C. W Boin, Agent, for carriers parties to schedule listed below.

Commodities involved: Cocoa or chocolate syrup, carloads, also kindred articles which may be added from time to time.

Territory: From, to, and between points in official territory.

Grounds for relief: Rail and motor competition, circuitous routes, grouping, additional commodity, and to apply rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: C. W Boin, Agent, I. C. C. No. A-962, Supp. 6.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Acting Secretary.

[F. R. Doc. 53-3513; Filed, Apr. 21, 1953; 8:48 a. m.]

[4th Sec. Application 28007]

WOODPULP AND SCREENINGS FROM NAIRNS FALLS, QUEBEC, TO CHESTER AND PHILADELPHIA, PA., AND WILMINGTON, DEL.

APPLICATION FOR RELIEF

APRIL 17, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by C. W Bom, Agent, for carriers parties to the schedule listed below.

Commodities involved: Woodpulp and woodpulp screenings, carloads.

From: Nairns Falls, Quebec.

To: Chester and Philadelphia, Pa., and Wilmington, Del.

Grounds for relief: Water and water-motor competition.

Schedules filed containing proposed rates: Canadian National Ry. tariff I. C. C. No. E-471, Supp. 55.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Acting Secretary.

[F R. Doc. 53-3514; Filed, Apr. 21, 1953; 8:48 a. m.]

[4th Sec. Application 28008]

GRAIN FROM OHIO AND MISSISSIPPI RIVER CROSSINGS TO ALABAMA

APPLICATION FOR RELIEF

APRIL 17, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for carriers parties to schedule listed below.

Commodities involved: Grain, grain products, and related articles, carloads.

From: Ohio and Mississippi River crossings.

To: Alabama City, Anniston, Attalla, Birmingham, Calera, Gadsden, Montgomery, and Selma, Ala.

Grounds for relief: Competition with rail carriers and circuitous routes.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, I. C. C. No. 1325, Supp. 10.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Acting Secretary.

[F. R. Doc. 53-3515; Filed, Apr. 21, 1953; 8:48 a. m.]

[4th Sec. Application 28009]

CRUSHED STONE FROM GRANITE HILL, GA., TO GLYNCO, GA.

APPLICATION FOR RELIEF

APRIL 17, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for the Atlantic Coast Line Railroad Company and other carriers.

Commodities involved: Stone, limestone, granite, or marble, broken or crushed, and stone screenings, carloads.

From: Granite Hill, Ga.

To: Glynco, Ga.

Grounds for relief: Competition with rail carrers and to meet intrastate rates.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, I. C. C. No. 998, Supp. 231.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Acting Secretary.

[F. R. Doc. 53-3516; Filed, Apr. 21, 1953; 8:48 a. m.]